

**CHIEF JUSTICE'S COURT**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE HRISHIKESH ROY**  
**HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA**  
**HON'BLE MR. JUSTICE PANKAJ MITHAL**  
**HON'BLE MR. JUSTICE MANOJ MISRA**

**COURT NO.1 SECTION PIL-W**  
**SUPREME COURT OF INDIA**  
**RECORD OF PROCEEDINGS**

**Civil Appeal No.841/2018**

**BAJAJ ALLIANCE GENERAL INSURANCE CO. LTD. Petitioner(s)**

**VERSUS**

**RAMBHA DEVI & ORS. Respondent(s)**

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TRANSCRIPT OF HEARING

21-August-2024  
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11:00 AM IST

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes, how do we go about it? Actually, last time, I think the Ld. Attorney General...

**R. VENKATARAMANI:** 15th April was the last Order passed by Lordships.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**R. VENKATARAMANI:** Thereafter, the consultations were almost completed, but what happened sometimes last month, when the committee met again and I had some queries and we went back again on some issues. So, about 42 proposed amendments are now put... finally put for motion. But I think it can happen only during the winter session. So, that's how it seems. Unless parties want to address the court and close this matter. Either Your Lordships... The government is proposing the amendments, the reference need not be answered. One way of going about it or keep it open when the matter goes before the Parliament, amendments are carried out and still they have a problem, court can...

**JAYANT BHUSHAN:** Or in fact, I had pointed out on the last date that the proposed amendments that had been handled over don't really change the position so far as the present Act is concerned and the proposed amendments, they don't change the position at all. Therefore, to wait for those proposed amendments would be meaningless. Plus, Your Lordship has spent a large amount of time in partly hearing this case. We had finished. The other side had nearly finished. And therefore, it would... now to wait for the amendments would mean that it would have to be reheard after that.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** What we'll do is that, we will conclude the hearing. And thereafter it's always... because it's not a constitutional issue, it's a statutory issue. Thereafter if Parliament brings in an amendment that will... the basis of these judgment is altered, or the law is altered, that will take effect then. I think that's altogether a much better thing. So, would you like to...

**R. VENKATARAMANI:** I'm told... the hearings are almost over, except some Rejoinders to be...

**JAYANT BHUSHAN:** I can read out this...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes. We were suggesting, Mr. Attorney General, if there is a little recap from this side in a short while, so that everybody in the memory will be refreshed. Not the entirety of the argument, but a recap. And then we will come back to this side.

**JAYANT BHUSHAN:** What I'll do is, I'll take Your Lordships just to those critical provisions. I'll take Your Lordships to the critical provisions and then my very short written submissions. It's only about seven or eight pages. That will recap it very quickly.

**ARCHANA DAVE:** In fact, My Lords had made a note from the written submissions that was filed in the lead matter. *Bajaj versus Rambha Devi*.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhushan, now we'll open the argument. Because last time it says Siddharth Dave Item [UNCLEAR].

**JAYANT BHUSHAN:** Yes. I'll do that. Would Your Lordship have the Act. If Your Lordship recalls, the question is, 'Whether a person who has a license to drive a Light Motor Vehicle can also drive a transport vehicle which is below 7500 kg?' Because that is, My Lord, included in the definition of Light Motor Vehicle. So, that's the critical question. The three-judge bench had decided that, "Yes, you can." After that, when this case came up before two judges, they doubted the correctness of that three-judge bench judgment. It was referred to three. Three have thereafter referred it to five. Both by speaking orders and pointing out certain provisions of the Act. Now, if Your Lordships will just have the critical provisions of the Act, Section 2 (21) defines Light Motor Vehicle. Does Your Lordship have it?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**JAYANT BHUSHAN:** Light Motor Vehicle means a transport vehicle or omnibus, the gross vehicle weight of either which or a motor car or tractor or road-roller, the unladen weight of any of which does not exceed 7500 kg. So therefore, it includes a transport vehicle. The definition of Light Motor Vehicle. Then Your Lordship may have transport vehicle, which is 247. Transport vehicle means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle, and all these terms are defined. So, essentially it means, broadly, a truck or a bus. Since I'm just quickly recapping, I won't take Your Lordships to all those other provisions. Then Section 3 this is very, very important.

1 Necessity for driving license. "No person shall drive a motor vehicle in any public place unless  
 2 he holds an effective driving license issued to him, authorizing him to drive the vehicle. And  
 3 no persons shall so drive a transport vehicle other than a motor cab or motorcycle hired for  
 4 his own use or rented under any scheme made under Subsection 2 of Section 75, unless his  
 5 driving license specifically entitled him so to do". So, I had pointed out, My Lord, that the  
 6 second part would become completely redundant and *otiose* if the interpretation given in that  
 7 three-judge bench judgment, ***Mukund Dewangan***, was to be accepted. "No person shall  
 8 drive a motor vehicle in any public place unless he holds an effective driving license issued to  
 9 him, authorizing him to drive the vehicle". Now, what is the meaning of the second part? "And,  
 10 no person shall so drive a transport vehicle unless his driving license specifically entitles him  
 11 so to do". There used to be My Lord, this sort of an authorization on the license which used to  
 12 say light motor vehicle, either transport or non-transport, NT or TR. So, you had to get that  
 13 particular authorization on your license authorizing you to drive a transport vehicle, which is  
 14 what Section 3, the second part mandates, that irrespective of what vehicle you're driving, you  
 15 cannot drive a transport vehicle unless your license specifically authorizes you to drive a  
 16 transport vehicle. So therefore, straightaway from this, if your license is only for light motor  
 17 vehicle with no authorization for transport vehicle, then you can't drive a transport vehicle.  
 18 That's my submission.

19  
 20 Then, My Lord, certain other sections which make it clear that there is a difference between a  
 21 transport vehicle and a non-transport vehicle, different age limits, different requirements  
 22 in Learner's License, different requirements in medical certificate, etc. Just quickly have a look  
 23 at that. Section 4, "No person under the age of 18 years shall drive a motor vehicle in any public  
 24 place". And then immediately have Subsection 2. "Subject to the provisions of Section 18, no  
 25 person under the age of 20 years shall drive a transport vehicle in any public place." So, which  
 26 means, at 18, you can go and get a light motor vehicle license. Light motor vehicle includes my  
 27 car. So, that I can get at 18. But if I don't need any other license or any other authorization for  
 28 driving a transport vehicle, that means on that light motor vehicle which I've got at 18, I can  
 29 drive a transport vehicle, which is what ***Mukund Dewangan*** says. But then, how do  
 30 square that with this Subsection 2, that you cannot drive a transport vehicle unless you are  
 31 20?

32  
 33 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

34  
 35 **JAYANT BHUSHAN:** Then, My Lord, 7, "No person shall be granted a Learner's License to  
 36 drive a transport vehicle unless he has held a Driving License..." Sorry... "to drive a transport

1 vehicle unless he has held a Driving License to drive a light motor vehicle for at least one  
2 year."

3  
4 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Which one is this?

5  
6 **JAYANT BHUSHAN:** 7(1). So, if you have a license to drive a light motor vehicle, you still  
7 can't even get a Learner's License for a transport vehicle, unless you've had it for one year.  
8 So, let alone, drive, or let alone have a license. So, all these clearly show. Then Your Lordships  
9 may have Section 9, i.e. grant of Driving License. So, you can apply for a Driving License. It  
10 shall be in such form under Subsection 2, et cetera. And then 3, if the applicant passes such  
11 test as may be prescribed by the Central Government, he shall be issued the Driving License,  
12 provided that no such test shall be necessary where the applicant produces proof to show that  
13 he had previously held a Driving License, et cetera, et cetera, et cetera. And then B, applicant  
14 is not suffering from any disability which is likely to cause the driving by him to be a source of  
15 danger to the public and licensing authority may, for that purpose, require the applicant to  
16 produce a medical certificate in the same form and in the same manner as is referred to in  
17 Subsection 3 of Section 8. And then 4, where the application is for a license to drive a transport  
18 vehicle, no such authorization shall be granted to any applicant unless he possesses a driving  
19 certificate issued by a school or establishment referred to in Section 12". So, first you need to  
20 get a driving certificate by some training school for a transport vehicle license, which is not the  
21 requirement for any normal light motor vehicle license. So again, you may have a light motor  
22 vehicle license but you still can't drive a transport vehicle because for that you need this  
23 certification from a school or establishment referred to in Section 12. So, many such things  
24 which make it absolutely clear that just because you have a license to drive a car, that is a light  
25 motor vehicle, light motor vehicle may include other things as well. But a non-transport  
26 vehicle does not mean that you can drive a transport vehicle. So, Section 3 makes it explicitly  
27 clear that unless it specifically authorizes you and then all these differences. Then 10 is  
28 important. "Every Learner's License and Driving License, except for a Driving License issued  
29 under Section 18 shall be in such form and shall contain such information as may be prescribed  
30 by Central Government." Then 2. "A Learner's License, or as the case may be, Driving License  
31 shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the  
32 following classes, namely, motorcycle without gear, motorcycle with gear, adapted  
33 vehicle, light motor vehicle and transport vehicle. Road roller, motor vehicle of specified  
34 description". So, please note that light motor vehicle and transport vehicle are separate  
35 categories. And this came about by an amendment in 1994, that transport vehicle was  
36 included. So, earlier, before you could get a license specifically for a transport vehicle, that is  
37 pre-1994, your license would have an authorization saying that all right, you are authorized to

1 drive a transport vehicle also. That is another Section 3. Now, post 1994, there is a specific  
2 category of license for transport vehicle itself.

3  
4 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

5  
6 **JAYANT BHUSHAN:** Now broadly, those are the sort of relevant sections. There are a  
7 couple of others. Then Your Lordships may turn to my written submissions. I'll quickly take  
8 Your Lordships through that, because that's very short, but comprehensive.

9  
10 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

11  
12 **JAYANT BHUSHAN:** Would you have my written submissions, My Lord?

13  
14 **JUSTICE HRISHIKESH ROY:** You have what is the judgment compilation, Mr. Bhushan?  
15 We don't have a written submission.

16  
17 **JAYANT BHUSHAN:** Judgement compilation, I think had been given by some  
18 other Counsel as well.

19  
20 **ARCHANA DAVE:** My Lord, it is there in the submissions that we filed.

21  
22 **JUSTICE HRISHIKESH ROY:** Is it in the [INAUDIBLE]

23  
24 **ARCHANA DAVE:** Yes, the judgment compilation is there.

25  
26 **JAYANT BHUSHAN:** Mr. Dave's name I think it was. If Your Lordship sees Mr. Dave's  
27 written submissions.

28  
29 **ARCHANA DAVE:** Yes, it's there.

30  
31 **JAYANT BHUSHAN:** There is a compilation of judgments. There is, first, the reference by  
32 two judges to three in the *Mukund Dewangan* case. Then the decision of three  
33 in *Mukund Dewangan*. Then in our case, My Lord, referenced by two to three and  
34 referenced by three to five and...

**ARCHANA DAVE:** My Lords have those written submissions which we filed earlier, by Mr. Siddharth Dave. Those are in the lead matter. My Lords had pointed out the differences also and the judgment also from them. If My Lords want to see, then I can show that as well.

**JAYANT BHUSHAN:** I had given a compilation of judgments, My Lords, of eight judgments.

**JUSTICE HRISHIKESH ROY:** Compilation, we have, Mr. Bhushan. What we want is the written submissions.

**JAYANT BHUSHAN:** Written submissions and then thereafter, My Lord, there is a separate compilation of judgements. Just a compilation.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** We got that.

**JUSTICE HRISHIKESH ROY:** We are at the foundation. Written submissions.

**JAYANT BHUSHAN:** Yes. So, just have a look at the written submission first. Because I'll quickly... It's a very short, but comprehensive written submission.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** It says, "The issue that arises."

**JAYANT BHUSHAN:** Yes. "The issue that arises in the present case is, whether a person who has a light motor vehicle license can drive a transport vehicle weighing less than 7500 kg? The three-judges bench in *Mukund Dewangan* has held that, since the definition of light motor vehicle in Section 221 of the Motor Vehicles Act includes a transport vehicle, the gross vehicle weight of which does not include 7500 kgs, it follows that, a license to drive a light motor vehicle includes an authority to drive a transport vehicle weighing less than 7500kg." Matter has been referred to this Hon'ble Constitution bench in two steps. Initially, a bench of two Hon'ble judges by Order dated 03-05-2018, referred the matter to a bench of three judges after doubting the correctness of the judgment of three judges in *Mukund Dewangan*. Thereafter, the bench of three judges has, after passing a reasonably detailed Order and doubting the correctness of *Mukund Dewangan* referred the matter to five judges. This is how the case has come up before the Constitution bench of five judges for decision. If Your Lordships wants, I can take Your Lordships to the two judges and to the three judges, the Referral Orders. But My Lord, since it was only a recap, I want to go as quickly as possible. The interpretation given by this Hon'ble court in *Mukund Dewangan* would

1 make the second... Sorry My Lord, just... yes, would make the second part of Section  
 2 3(1) *otiose*. That's my first submission. Section 3(1) reads as follows. "No person shall drive a  
 3 motor vehicle in any public place unless he holds an effective driving License issued to him,  
 4 authorizing him to drive the vehicle, and no person shall so drive a transport vehicle..." And  
 5 then just please ignore the words within the parentheses, because that may not be relevant for  
 6 our purpose here. "Unless his Driving License specifically entitled him so to do." Now, just for  
 7 a moment, remove that second part "and no person."

8  
 9 If **Mukund Dewangan** was correct, the section means the same thing with or without that  
 10 second part. That second part becomes redundant. What is the purpose of saying that, "No  
 11 person shall so drive a transport vehicle unless his Driving License specifically entitles him so  
 12 to do"? Unless My Lord, either you must have a Driving License to drive a transport vehicle or  
 13 you must have a Driving License for a light motor vehicle or any other class which has a  
 14 specific authorization that, 'you can drive a transport vehicle.' But **Mukund**  
 15 **Dewangan** holds quite the reverse, namely that, "If you have a license to drive,  
 16 a light motor vehicle, then that's good enough. Then you can drive a transport vehicle, with or  
 17 without authorization. That is not a requirement." It is submitted that, "To drive a transport  
 18 vehicle, the aforesaid section requires that even if it is a light transport vehicle, the license for  
 19 driving the light motor vehicle must specifically entitle the driver to so drive a transport  
 20 vehicle. In fact, the form for a Driving License also contained a specific portion for  
 21 authorization to drive a transport vehicle. Thus, it was clear, that without such an  
 22 authorization, a mere license for light motor vehicle would not authorize the driver to drive a  
 23 transport vehicle. The position has been further made clear by the latest Form 7 incorporated  
 24 in the Central Motor Vehicle Rules, in which, is a form for a Driving License, laminated card.  
 25 In this, against the class of vehicle being LMV or Light Motor Vehicle, the vehicle categories  
 26 have been specified namely, NT (Non-Transport) and TR (Transport). The Form 7 can be  
 27 found at page 882 of Shri Siddharth Dave's written submissions. Would Your Lordships just  
 28 have a quick look at that? Page 882.

29  
 30 **JAYANT BHUSHAN:** This is in the Rules. This is part of the Rules.

31  
 32 **CHIEF JUSTICE D. Y. CHANDRACHUD:** 882?

33  
 34 **JAYANT BHUSHAN:** Yes.

35  
 36 **CHIEF JUSTICE D. Y. CHANDRACHUD:** We have Mr. Siddharth Dave's rules, but...



1 **JAYANT BHUSHAN:** It's on the screen.

2

3 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes, we got it. Bookmarked Final Written  
4 Submission. Alright.

5

6 **JAYANT BHUSHAN:** Now, this is, My Lord, the form. This is the backside of the license.  
7 The front side would have that photograph, et cetera, Issued date, Validity, et cetera. And this  
8 is the back side. So, this will tell you what you are authorised to drive. So, there are four  
9 categories. Class of vehicle- Motorcycle, car, truck and MVSD. What is MVSD? Anyway. Now  
10 in that LMV, just have a look at My Lord, if Your Lordship goes down to 'vehicle category'  
11 against LMV, there is an NT which is Non-Transport/TR, which is Transport. So, one of them  
12 would be... supposing it is not to drive a transport vehicle that TR would be scored out, or only  
13 NT would be ticked. So, it is this/that. So, this would show. So, this squares with that second  
14 part of Section 3, that you cannot drive a transport vehicle unless your license specifically  
15 authorizes you so to do. So, your license will say that it's a license for an LMV, but it  
16 includes a transport vehicle or it doesn't include a transport vehicle. So, supposing it is only  
17 NT, then it is for a non-transport vehicle, namely, you can drive a car, but you can't drive a  
18 truck or a bus.

19

20 **CHIEF JUSTICE D. Y. CHANDRACHUD:** NT/TR would be... one of them would be  
21 scored off or?

22

23 **JAYANT BHUSHAN:** Yes.

24

25 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But it appears that NT and TR is oblique (/).  
26 So, does that mean you can drive both?

27

28 **JAYANT BHUSHAN:** It doesn't leave anything else. So, there was no purpose of writing  
29 NT/TR.

30

31 **CHIEF JUSTICE D. Y. CHANDRACHUD:** This is an actual license, right?

32

33 **JAYANT BHUSHAN:** Yes. So, this is the form.

34

35 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But neither has been scored off.

36

37 **JAYANT BHUSHAN:** No, this is only the form.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Oh, it's only the form.

**JAYANT BHUSHAN:** This is only the form. This is not an actual license. This is the form and the rules.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Oh! I see.

**JAYANT BHUSHAN:** In fact, if I remember correctly, my license has one of them scored off. It says NT. My license is for a motorcycle NT, and a Light Motor Vehicle NT.

**JUSTICE HRISHIKESH ROY:** That's because you didn't apply.

**JAYANT BHUSHAN:** I'm sorry? I can't drive a bus or a truck.

**JUSTICE PAMIDIGHANTAM SRI NARASIMHA:** You're in a profession, you don't need.

**JAYANT BHUSHAN:** No, so as per *Mukund Dewangan*, my license would entitle me to drive a light transport vehicle. Something under 7,500 kilos, I would have the right to drive, because 'Light Motor Vehicle' includes within it a 'transport vehicle'. The definition of 'Light Motor Vehicle' under Section 221 includes within it a 'transport vehicle weighing less than 7,500 kg.' Therefore, if I have a light motor vehicle license, I can drive a transport vehicle weighing less than 7,500 kg. But that's not correct, because the license form itself will show whether it is NT or TR.

**JUSTICE HRISHIKESH ROY:** What is separate category? The third item?

**JAYANT BHUSHAN:** That's because of Section 10, and which is why one of the things that we are doing now in the proposed amendment... In fact, just have a look at the proposed amendment, My Lord, that's a little instructive as to what they are doing in that. Which is why I was saying that will make no difference. My learned friend had handed over the proposed amendments last time. Section 10 has a transport vehicle category for license also. Your Lordship just saw it. Just have a look at Section 10 again. Your Lordship's question is very relevant. If you can do it by NT and TR in that, against the LMV, why have a separate portion for transport vehicle? That is...

1 **JUSTICE HRISHIKESH ROY:** Prior to the 1994 Amendment...

2

3 **JAYANT BHUSHAN:** Yes.

4

5 **JUSTICE HRISHIKESH ROY:** ... the Transport Vehicle were of different  
6 categories. Heavy, medium, all that. So, now they have categorized everything into one  
7 category, that is, transport vehicle. You are looking at Section 10(2) Subclause (e).

8

9 **JAYANT BHUSHAN:** Right.

10

11 **JUSTICE HRISHIKESH ROY:** And when there will be light motor vehicle.

12

13 **JAYANT BHUSHAN:** Yes.

14

15 **JUSTICE HRISHIKESH ROY:** What is the philosophy for having transport vehicle of the  
16 light category, below 7500 kg category to have a special endorsement?

17

18 **JAYANT BHUSHAN:** I'll tell Your Lordship why. I mean, from whatever I understand. They  
19 have not said it, but whatever I can understand. Transport vehicle essentially is a truck or a  
20 bus, broadly. So, when you drive a bus, you are putting several people at risk and you are  
21 normally driving it for long hours.

22

23 **JUSTICE HRISHIKESH ROY:** We are not looking at bus. That's why we are saying we are  
24 talking about LMV 7500 within.

25

26 **JAYANT BHUSHAN:** That would include bus also. LMV includes bus as well.

27

28 **JUSTICE HRISHIKESH ROY:** May include a bus.

29

30 **JAYANT BHUSHAN:** Yes. So, Your Lordship is asking what is the logic for the truck. Light  
31 truck

32

33 **JUSTICE HRISHIKESH ROY:** Yes. What is the logic?

34

35 **JAYANT BHUSHAN:** Usually when somebody drives a car, even if it is of the same  
36 weight, 7500 kg, he is driving it normally for a lower duration of time. That's what I can  
37 understand as to why there is a difference. However, when you're driving a truck, then you are

1 driving it pretty much through the day. So normally, then you will get tired, you are putting  
2 more people at risk, et cetera. So therefore, because you are driving a truck or a bus, the logic  
3 is the same here. You are putting more people at risk. Therefore, they have all these things  
4 that, a) you must be at least 20 years old. b) you must have had a license, not just  
5 a Learner's License for a light motor vehicle for one year. You should have been driving a light  
6 motor vehicle for one year. c) that you must have a medical certificate, et cetera, before you  
7 can do it. d) you must have a certificate from a driving school saying that you are fit to drive  
8 before you can get that license.

9  
10 **JUSTICE HRISHIKESH ROY:** One aspect that you are pointing out in your  
11 response, about somebody driving for the day, are you presumed that somebody who's 18-  
12 year-old will have more energy than a 20-year-old?

13  
14 **JAYANT BHUSHAN:** But may not have as much experience or as much maturity.

15  
16 **JUSTICE HRISHIKESH ROY:** In order to drive you need one year extra with an LMV.  
17 So, then you drive the transport vehicle. So, beyond that, this tiredness and the energy factor  
18 I don't think it comes in.

19  
20 **JAYANT BHUSHAN:** Two years, that 20 years is a statutory provision. I have not made it  
21 up.

22  
23 **JUSTICE HRISHIKESH ROY:** No, we are trying to understand the philosophy.

24  
25 **JAYANT BHUSHAN:** Yes.

26  
27 **JUSTICE HRISHIKESH ROY:** You have not made it up, we know that. We are trying to  
28 understand from you.

29  
30 **JAYANT BHUSHAN:** Therefore, that seems to be the legislative philosophy that you need  
31 a little maturity, you need a little more experience.

32  
33 **JUSTICE HRISHIKESH ROY:** If you are going on a long drive, across the streets, you are  
34 driving throughout the day. Your logic, I don't think it appeals to us.

35  
36 **JAYANT BHUSHAN:** That is true. So therefore, there will always be some overlaps in this  
37 kind of thing. When you are creating categories, you see as to what is more likely, if you are

1 driving something which is normally a little more heavier, et cetera. Normally you're driving  
 2 it for a longer duration. You are putting more people at risk, so you need a little more maturity.  
 3 You need a little more experience, which is why that you should have had a license for one  
 4 year, et cetera. That seems to be, as I can understand.

5  
 6 **ARCHANA DAVE:** I can try answer that My Lords. Can I try answer that?

7  
 8 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Let him complete and then you can.

9  
 10 **JAYANT BHUSHAN:** Therefore, My Lords, but the provisions make it clear. Now,  
 11 if Your Lordships were to turn to, since Your Lordship's question was, why this transport  
 12 vehicle, et cetera, I pointed out that the Section 10 as amended in 1994, My Lord added  
 13 transport vehicle as a kind of a license, that you are getting a license for an LMV, you're getting  
 14 a license for a transport vehicle, et cetera. So, it became a separate category in the license  
 15 itself.

16  
 17 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Even in the case of a two-wheeler, that form  
 18 says NT/TR. It's not only for the LMV. Even for a motorcycle. That first diagram. It says  
 19 NT/TR. That means even in the case of a two-wheeler, it contemplates that it can be a non-  
 20 transport or it can be a transport. Is that not the same thing, which, in three categories, the  
 21 same principle is applied. In the case of a two-wheeler, LMV and the last one, which is MVSD,  
 22 I don't know what MVSD means.

23  
 24 **JAYANT BHUSHAN:** Now, look at, My Lord, motorcycle, means a two-wheeled motor  
 25 vehicle. So, my license, for instance, My Lord, has motorcycle as well as car. Question was, "If  
 26 your license entitles you to drive one or more of the following class."

27  
 28 **JUSTICE HRISHIKESH ROY:** Mr. Bhushan, also, at the age of 18, I have an LMV, right?  
 29 By the time I became 20-year-old, the same license permits me to have a transport license. I  
 30 mean, to drive a transport vehicle. Automatically, Sub-section 4 gets qualified.

31  
 32 **JAYANT BHUSHAN:** No, Section 3, the second part will not authorize you. Because that  
 33 license will not have that authorization.

34  
 35 **JUSTICE HRISHIKESH ROY:** No, you see, logically, it is just a matter of endorsement. 3  
 36 is not authorizing....

1 **JAYANT BHUSHAN:** That endorsement will be subject to various other things. Not just  
2 age.

3  
4 **JUSTICE HRISHIKESH ROY:** No, I understand. You see, somebody at the age of 18 gets  
5 a LMV. After one year, he can try and proceed for the transport license, to transport vehicle,  
6 right? At the age of 20, with the same LMV, he gets entitled to drive... Now, that the  
7 endorsement...

8  
9 **JAYANT BHUSHAN:** He doesn't get entitled till he gets that license.

10

11 **JUSTICE HRISHIKESH ROY:** So, this endorsement, what will the endorsement require  
12 him to do? He's holding the license. Or he is aged 20 years.

13

14 **JAYANT BHUSHAN:** He is eligible to...

15

16 **JUSTICE HRISHIKESH ROY:** He is firstly holding a license of LMV.

17

18 **JAYANT BHUSHAN:** Yes, My Lord.

19

20 **JUSTICE HRISHIKESH ROY:** He's aged 20 years. And then the endorsement.

21

22 **JAYANT BHUSHAN:** Therefore, that endorsement will not come till you are tested on a  
23 transport vehicle. And till you have a certificate, My Lord, a medical certificate, which is not  
24 required for an LMV, plus a certificate, from a training school, which is not required from an  
25 LMV. So, that authorization will not just come because you are 20. Authorization will... That  
26 authorization is not an automatic authorization.

27

28 **JUSTICE HRISHIKESH ROY:** No, endorsement we understand, what you are trying to  
29 say.

30

31 **JAYANT BHUSHAN:** That endorsement, My Lord...

32

33 **JUSTICE HRISHIKESH ROY:** But we are also looking at an endorsement for the two-  
34 wheeler, Non-Transport and the Transport category.

35

36 **JAYANT BHUSHAN:** So therefore, My Lord, now the two-wheelers are also used  
37 commercially, namely, you carry passengers like Ola Scooter, et cetera. All that will come in

Transport. It comes under the definition of 'transport vehicles'. So, if you are using a two-wheeler for a transport vehicle purpose, then you have to have an authorization or an endorsement for, even in the two-wheeler, for transport vehicle. That's the scheme of the Act, and for good reason. Nobody has challenged the provisions of the Act, saying that this requirement of my having a separate endorsement is wrong. Just have a look at 9(6). "The test of competence to drive shall be carried out in a vehicle of the type to which the application refers." So, if I want that endorsement of having a transport vehicle license on my LMV, I must then apply for transport vehicle and I will be tested on a transport vehicle. I can't be tested in a Maruti 800 car and then drive a truck. Now just have a look at the proposed amendment, since Your Lordship's question was... and one question which fell from Your Lordship, about one or more of the following classes in Section 10(2). It can be one or more, but for each you'll have to be tested separately. Now for instance, my license... because you can't have more than one license. License is only one. That will give you what all you can drive. So, I had a separate test for a motorcycle, when I first started driving motorcycles, and I had a separate test for a car, because that's under 9(6). Your test of competence shall be on the vehicle that you are now getting a license for. So, you will have a separate test. Now just have a look at the proposed amendments which the Attorney General had handed over to Your Lordship, and just come to Section 10 now, because My Lord's question was very relevant. Why have this? If you have the endorsements of transport, non-transport on LMV, et cetera, et cetera, why have a separate category of transport vehicle license? Now they are planning to do away with that. And they are making the position very clear, that on each license they will be given as to whether it is a transport vehicle or a non-transport vehicle. That confusion came because, My Lord, transport vehicle was under LMV also and transport vehicle became a separate category under Section 10. So, now what happens? Do you get just an endorsement? Do you get a separate license for a transport vehicle? So, possibly under that regime, it was either/or. You... LMV, you get an authorization or an endorsement for transport vehicles, which will be only after you have passed a test on a transport vehicle under 9(6). You don't just get the authorization because you have turned 18 or 20, or you've had a license for one year.

One section I missed out. Section 14. Just have a look at that. That's the currency of your Driving License. 14(1) is about Learner's License. Please ignore that. That is six months. 14(2). A Driving License issued or renewed under this Act shall, in the case of license to drive a transport vehicle, be effective for a period of five years, provided in case of license to drive a transfer vehicle carrying goods of dangerous or hazardous, et cetera, then three years. Then b), in the case of any other license subject to such conditions as the Central Government may prescribe, if the person obtaining the license either originally or on renewal thereof, has not attained the age of 30 years on the date of issue or renewal

thereof be effective until the date on which such person attains the age of 40 years. Namely, if I get it at 18, it's valid for 22 years. But transport vehicle is valid only for five years. Whatever the age. Then, has attained the age of 30 years, but not attained the age of 50 years on the date of issue/renewal be effective for a period of ten years from the date of issue. Therefore namely, after 30 it will be only valid for ten years, because they need to check your competence more quickly as you age. Has attained the age of 50 years, but not attained the age of 55 years on the date of issue or renewal thereof be effective until the date which person attains the age of 60 years. Or has attained the age of 55 years on the date of issue, as the case may be renewal thereof be effective for a period of five years. So, as you age, it becomes valid for a shorter and shorter and shorter time. But at least five years, whereas for transport vehicle right from the beginning, it is valid only for five years.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Right.

**JAYANT BHUSHAN:** So, the whole, entire sort of procedure, the test, the everything is different for transport and non-transport vehicles. So, whether it is a separate license under Section 10, as happened after the 1994 amendment, or it is a separate endorsement on your other license, namely LMV, etc. but there is a whole different regime prescribed for it. You must have so many years. You must have so much experience. You must have training from... and a certification from and a driving school. You must have a medical certificate. It will be only for five years. So, it's not as if, just because you turn 20, you get that authorization or that endorsement. Now just have a look at what they are proposing, although that may not be relevant for the time being, but just for the understanding of even how they deal with it. Section 10. Amendment, proposed amendment, that my learned friend had handed over on the last date 16th April.

Now, if Your Lordships turns to My Lord, the no. 11 on the side, form and contents of licenses to drive. Now just have a look at Subsection 2. This is Section 10 now. Your Lordship remembers 1994, they added that transport vehicle as a class of vehicle for the license. Now they've removed that transport vehicle. So, what they say is, a Learner's License or a Driving License as the case may be, shall also be expressed as entitling the holder to drive a motor vehicle specified as transport vehicle or non-transport vehicle with manual gear selection or automatic gear selection as the case may be, of one or more of the following classes. Namely, now there are five. Motor cycle, three-wheeled motor vehicle, light motor vehicle- category 1, light motor vehicle- category 2, motor vehicle of a specified description as may be notified by the Central Government in the official Gazette. Now, all these classes have two categories, transport or non-transport. So, it's not that you get



1 a license for any of these, you are entitled to drive, My Lord, transport or non-transport. It will  
 2 be specified that LMV Transport, just as my license says, LMV NT, Non-  
 3 Transport. So, that Transport has been removed, because there was a redundancy there. You  
 4 could come within LMV, but you had to get an authorization under Section 3, the second  
 5 part, or you could get just a transport vehicle license. So, now they have done away with that  
 6 redundancy and they make it clear that it can be either or, transport/ non-transport. And then,  
 7 back to my written submissions, My Lord, I've reached up to paragraph 5.

8  
 9 **CHIEF JUSTICE D. Y. CHANDRACHUD:** You've broadly, I think recapped.

10  
 11 **JAYANT BHUSHAN:** Yes, just one more thing. If Your Lordships just has  
 12 my written submission, page 5, or page 4, bottom. That's my second legal argument. That's my  
 13 second legal argument, My Lord, that *generalia specialibus non derogant* and the reverse.  
 14 Just have a look at page 4, bottom. Paragraph 8. Your Lordship has paragraph 8? Post the  
 15 amendment of 1994, where Clauses (e) to (h) in Section 10(2) were deleted and transport  
 16 vehicle was added, the position was becoming even clearer. Now the classes of vehicles for  
 17 which one can get a Driving License are d) light motor vehicle and e) transport vehicle  
 18 separately. It is a well-known principle of law that, "The special will override the general and  
 19 the general will not override the special." The two maxims are *generalia specialibus non*  
 20 *derogant*- The general will not override the special. And *specialia generalibus derogant* - the  
 21 special will override the general. In ***P.V. Hemlatha versus so and so 2002***, a three-judge  
 22 bench of this court held as under, "The above argument advances attractive, but cannot  
 23 be accepted for another reason. In our view, the law contained in Travancore-Cochin Act and  
 24 the Kerala Act regulating the practices, procedure and powers of the Chief Justice and judges  
 25 of the High Court in relation to all cases from the enactments, from all enactments appearing  
 26 before them, is a general law, which cannot be made applicable to appeals from  
 27 the Code of Civil Procedure regulated by special law. That is contained in Sections 96 to 98 of  
 28 the Code. There is a clear conflict between the provisions contained in Section 23 of the  
 29 Travancore-Cochin Act, which allows the reference by differing judges who have delivered  
 30 separate judgments or opinions to a third judge on issues both on fact and law. And the  
 31 provisions contained in proviso of Subsection 2 of Section 98 of the Code, which permits  
 32 reference to one or more judges only on the difference of opinion on the stated question of law.  
 33 When the courts are confronted with such a situation, the court's approach should be to find  
 34 out which of the two apparently conflicting provisions is more general and which is more  
 35 specific, and to construe the more general one as to exclude the more specific. The principle is  
 36 expressed in the maxims *generalia specialibus non derogant* - general things do not derogate  
 37 from special things and *specialia generalibus derogant* - special things derogate from

1 general things. These principles have also been applied in resolving a conflict between two  
 2 different Acts, and in the construction of statutory rules and statutory orders. Therefore, now,  
 3 once we are faced with the situation that Section 10 envisages light motor vehicle  
 4 and transport vehicle separately, licenses. So, transport vehicle is special, light motor vehicle  
 5 is general. Therefore, it will have to be deemed that here in Section 10, light motor vehicle will  
 6 exclude transport vehicle, for which you need to get a separate license. That's our submission.  
 7 And then, I've referred to various other judgments which cite this principle. And then in  
 8 paragraph 10, I have given an example. Your Lordship has seen that 'light motor vehicle'  
 9 includes road roller. The definition includes a road roller of less than 7,500 kilos. Now, road  
 10 roller is a separate license under Section 10. Road roller drives completely differently than a  
 11 normal car; it has separate wheels; it has that huge wheel and the turning radius is immense.  
 12 It drives totally differently. It's very, very heavy. So, if **Mukund Dewangan** was correct and  
 13 we are wrong in what we are submitting, theoretically, even to drive a road roller, all I need to  
 14 have is my light motor vehicle license. And I'm just showing the sort of absurdity of where this  
 15 can lead to. Particularly in view of the fact, 9(6), I have already pointed out, you need to be  
 16 tested on the vehicle that you are getting a license for. Now, if light motor vehicle is so diverse  
 17 that it can take within its ambit a car, a truck, a bus, a road roller, then that means you can go  
 18 for a test on your Maruti 800 vehicle and then say, "Now, I'm fit to drive a road roller", because  
 19 light motor vehicle includes road roller which is less than 7,500 kg. What happens to all those  
 20 sections, including the section which says you must be tested on the vehicle that you are  
 21 applying for a license for. The whole idea is, that you must show your competence to drive that  
 22 kind of vehicle. This is a totally different kind. Just because light motor vehicle... My Lord,  
 23 light motor vehicle is something which just defines weight, that's all. In para 11, I have given  
 24 that, Section 9... 9(6) actually should have been added in this. (15) is... And then para 13 is  
 25 where I've given what I think is the reason why they've made a difference between transport  
 26 and non-transport vehicles. Basically, that's my submission, My Lord. I'm very grateful to Your  
 27 Lordships.

28  
 29 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Thank you, Mr. Bhushan. We'll hear the other  
 30 side now and then Rejoinder, if you want to supplement, because...

31  
 32 **ARCHANA DAVE:** My Lord, just...

33  
 34 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Just two minutes. Certainly.

**ARCHANA DAVE:** Few more sections which were left out. If My Lords have those written submissions which were filed by Mr. Dave, My Lords? I want to take straightaway, My Lords, to the statutory provisions, which is at page 5.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Are you on the bookmarked final submissions or the final submissions? There are two submissions of Mr. Dave?

**ARCHANA DAVE:** The first one.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** The first one, right.

**ARCHANA DAVE:** Yes. Which is indexed as Written Submissions and then Compilation. Part A is reference timeline. That is already covered by my learned friend.

**JUSTICE MITHAL:** You're referring to bookmarked Written Submissions.

**ARCHANA DAVE:** Yes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** You are referring to the final written submissions, right?

**ARCHANA DAVE:** Yes, My Lords. It is divided into five parts. The first is reference timetable.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Statutory provision. Tabulated chart. Judicial pronouncements and conclusions.

**ARCHANA DAVE:** Yes. It's shown on the screen as well. So, the first part is reference timeline. I'll leave that. My learned friend has covered. Second is the statutory provisions, which is part B. My Lords are with me there?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ARCHANA DAVE:** Section 2(10) refers to two classes of motor vehicles, transport and light motor vehicle. It is not the type of motor vehicle. So, I'll just clarify that when My Lords were looking at Form 7, so MVSD is Specific Description. SD means like in construction purposes. For construction purposes, you have separate kinds of vehicles which are used for

1 construction. Those are the Specific Description Motor Vehicles. For that, you need a separate  
2 endorsement. Now that also, I'll take you to that Form 7, MVSD. Now, My Lords kindly  
3 see, that there are... These two classes are not co-equals.

4  
5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** The two of you are good till lunch, right? So, we  
6 can just say that people are in the court are most welcome to stay. But otherwise, we are  
7 discharging the court formally till 01:00. Till 02:00.

8  
9 **ARCHANA DAVE:** The class which is used in Section 10(2), these are  
10 not... [INAUDIBLE] amendment came, the four classes were merged into one of the  
11 'transport vehicle', but the 'light motor vehicle' was in 10(2)(e), which was still kept separate.  
12 So, that means that these two are not co-equals. They can't...

13  
14 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Just say that for a second, again, the Section?

15  
16 **ARCHANA DAVE:** Yes. My Lord, 10(2)(d) and 10(2)(e). So, before that, My Lords, there  
17 were four classes.

18  
19 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Before 1994, the classes were (a).

20  
21 **ARCHANA DAVE:** Yes.

22  
23 **CHIEF JUSTICE D. Y. CHANDRACHUD:** (b).

24  
25 **ARCHANA DAVE:** Yes.

26  
27 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Then which others?

28  
29 **ARCHANA DAVE:** My Lords, kindly see 'adapted vehicle.'

30  
31 **CHIEF JUSTICE D. Y. CHANDRACHUD:** That was subsequently, that is 2019.

32  
33 **ARCHANA DAVE:** Please come to (e).

34  
35 **JUSTICE P. S. NARASIMHA:** It was 'invalid vehicle'.

36  
37 **ARCHANA DAVE:** Yes.

**JUSTICE P. S. NARASIMHA:** Before that it was invalid vehicle.

**ARCHANA DAVE:** Yes, My Lord.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Adapted vehicle. Invalid carriage, sorry.

**ARCHANA DAVE:** Yes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** That is the third. Then light motor vehicle.

**ARCHANA DAVE:** Yes. Then transport vehicle. Now below the transport vehicle, these are medium passenger motor vehicle, heavy goods vehicle, heavy passenger motor vehicle.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Pre-1994?

**ARCHANA DAVE:** Yes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** So, this doesn't seem to have.

**ARCHANA DAVE:** Yes. My Lords, 1994, what it did was, it amalgamated these four classes. I'll just read out, My Lord.

**JUSTICE P. S. NARASIMHA:** Can you read them? What are those four?

**ARCHANA DAVE:** Yes, it's in my written submissions. It's medium goods vehicle, medium passenger vehicle, heavy goods vehicle and heavy passenger vehicle into one class, which is 'transport vehicle.'

**JUSTICE P. S. NARASIMHA:** Medium... say again?

**ARCHANA DAVE:** Medium goods vehicle, medium passenger vehicle, heavy goods vehicle and heavy passenger vehicle into one class of 'transport vehicle'. And Section 10(2)(d) on the other hand, it provides for 'light motor vehicle'. So, the intention of the Legislature, My Lords, keeping these two classes as different, is that they can't be read as equals, and a conjoint reading would definitely mean that even the authorization to a person to drive a particular class of vehicle, will be based on different criteria. One is, age criteria. My learned friend did

1 take that in his submissions. My Lords, while for LMV you need 18 years, for a transport  
 2 vehicle it can't be below 20 years. Now My Lords, there's also Section 7, which says that  
 3 a Learner's License for a transport vehicle can only be issued upon a person who has held  
 4 a Driving License for a light motor vehicle for at least one year. So, that is a prerequisite when  
 5 you apply for a transport vehicle. And that too for a Learner's License. May I go forward, My  
 6 Lord?

7  
 8 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Right.

9  
 10 **ARCHANA DAVE:** Then My Lords, it's the medical certificate... is another  
 11 requirement, which My Lord, Section 8 Subclause (c) was read, it has to be read, along  
 12 with Rule 5 because the required of a medical certificate by a registered medical practitioner  
 13 as to the physical fitness of an applicant for issuing of a license for a transport vehicle is given  
 14 in Rule 5, of the Motor Vehicle Rules. These are attached with my recent submissions. I'll also  
 15 take My Lords through that. Whereas for issuance of license or any other vehicle, a self-  
 16 declaration is what it requires. For an LMV, I self-declare that I am medically fit and I can  
 17 drive, nothing further is required. Whereas for a transport vehicle, Rule 5, says that a  
 18 registered medical practitioner has to give you a medical certificate.

19  
 20 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Where do you get the Rules?

21  
 22 **ARCHANA DAVE:** My Lords they are along with these only.

23  
 24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** They are in your submissions?

25  
 26 **ARCHANA DAVE:** Yeah, yeah, they are in these submissions only. In the end, the Acts as  
 27 well as Rules are attached.

28  
 29 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Dave's?

30  
 31 **ARCHANA DAVE:** Yes. Bookmark My Lords, these Rules start from page 436. Internal My  
 32 Lords of these submissions.

33  
 34 **JUSTICE P. S. NARASIMHA:** PDF Number 440?

35  
 36 **ARCHANA DAVE:** Yes. Then My Lords Section 9, Sub-clause 4, provides that a person  
 37 obtaining a Driving License for a transport vehicle is required to possess a driving certificate

1 issued by a school or establishment, whereas for a motor vehicle, for an LMV there is no  
 2 requirement of a driving certificate. My Lords that will also come under Rule  
 3 17(1)(b). 17(1)(a) is without any certificate and 17(1)(b) is specific to transport vehicle which  
 4 says it has to be accompanied by a driving certificate. So the intention of the legislature is to  
 5 place transport vehicles at a higher degree of scrutiny, and the reason is the public safety. My  
 6 Lords would remember that previously when we were arguing, we had shown certain  
 7 photographs of certain transport vehicle which were less than 7500 kg, but there were school  
 8 vans or there were little bigger than school vans but were below 7500 kg. They are yellow in  
 9 colour because they are carrying children, but they are all below 7500. So that would mean  
 10 that anybody who has Light Motor Vehicle license can drive even those buses which are  
 11 carrying school children.

12  
 13 Now, My Lords, the training period. The Rule 31 prescribes that the training period for non-  
 14 transport vehicle is 21 days with actual hours of driving by the trainee being not less than 10  
 15 hours, whereas for the transport vehicle the minimum training period prescribed is 30 days  
 16 with not less than 15 hours of actual driving by the trainee. This My Lords can find a Rules 31,  
 17 sub-clause 2, 3 and 4 of the Central Motor Vehicle Rules. I'm not reading those Rules My  
 18 Lords, I'm just pointing them out.

19  
 20 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Last time it had been pointed out to us.

21  
 22 **ARCHANA DAVE:** Yes, we have read that. I'm just pointing it out in short, so that we can  
 23 save time. Then the syllabus prescribed. Now My Lords, these transport vehicles, the syllabus  
 24 of these vehicle covers topics such as night driving, hill driving, emergency manoeuvres,  
 25 fire hazards, firefighting and prevention methods on vehicles

26  
 27 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Non-transport. It's covered by A, B, C, F, G  
 28 and K.

29  
 30 **ARCHANA DAVE:** Yes.

31  
 32 **CHIEF JUSTICE D. Y. CHANDRACHUD:** And my notes of last time say that and for  
 33 transport vehicles E, F, G...

34  
 35 **ARCHANA DAVE:** Yes.

36  
 37 **CHIEF JUSTICE D. Y. CHANDRACHUD:** H, I, J, K.

**ARCHANA DAVE:** Yes. The next page is important My Lords. There is a tabulated chart... My Lords, on page 7, there is a tabulated chart, which is highlighting the distinction between the requirements of license for Light Motor Vehicle and transport vehicle. So, this is a summary of the differences in two licenses plus the age and time requirements. Section 4, Section 7, Sub-Clause...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** [UNCLEAR] 10, 14, Rule 5, you have shown us, Sub-rules also.

**ARCHANA DAVE:** Yes. Rule 5, is with regard to the medical certificate. That is in the second column. Then the driving certificates, I have mentioned. Then there is a separate... on the next page, My Lords would see, there is a necessity for permits also, which is under Section 66. So, while you are driving a Light Motor Vehicle, you're having that license, there is no necessity for permit. Whereas for the transport vehicle, you would require a permit under Section 66 from the Regional or the State Transport Authority to use a vehicle as a transport vehicle. Then the validity of the license. That is also under Section 14, My Lords have rightly written that. So, the validity initially for the transport vehicle is 5 years. Whereas for LMV, who has attained 30 years of age on the date of issued or renewal, valid till such person attains 40 years of age. And My Lord, that goes on till 55 years. Then there are other differentiating factors, which are requirements of uniform and badges. When you are driving a transport vehicle, the driver is expected to wear a particular kind of uniform and badge, which is under Section 28. Further as we go up in the table... Then the State Governments make such rules prescribing which kind of uniform or badges the driver has to wear, which is under Section 28(2)(d). Then 'duties and functions', 'conduct', then the 'syllabus.' The last part is the syllabus. So, these are the differentiations, My Lords, in both the requirements.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ARCHANA DAVE:** When in the judgment of *Mukund Dewangan*, 'syllabus' is not dealt with properly. And that is in paragraph 22. My Lords, in Part D of the written submissions, there are judicial pronouncement and a chart of conflicting views. Last time we had read them in detail. I can quickly run through these judgments.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** That's all right. I think it really ultimately....



**ARCHANA DAVE:** These are 8 judgments. We could see that there are difference in judicial pronouncements so far as the LMV and transport vehicles are concerned. These are my submissions with respect to differences.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Thank you.

**ARCHANA DAVE:** I'm so deeply obliged, My Lords.

**ANUJ BHANDARI:** My Lord, because My Lord had issued...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** You want to take two minutes? Just two minutes, and then we'll take....

**SHIVAM SINGH:** About 4-5 minutes, Your Lordships.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** All Right.

**SHIVAM SINGH:** My Lords, the issue, which I'd like to highlight. One has already been dealt with conclusively in effect, in terms of the 1994 Amendment effect, and how it indicates the conscious will of the legislature. Your Lordships, on day 1 had also noted that in terms of Section 10(2), there is a particular phrase or a particular term which is used, which indicates a special emphasis in terms of the word 'expressed'. That indicates that there is a conscious emphasis which is laid down to treat these as non-equals. So, to that extent, this argument in terms of what the '94 Amendment weighs and what it tries to introduce, that has already been dealt with. I'll just come to two more arguments which deal with the aspect of impact and how insurance companies, particularly, which are a viable stakeholder in the process, would be affected by it. The first argument deals with the aspect of *contra proferentem*, and the second argument, Your Lordships, in terms of the insurance policies and the premiums, is basis a law and economics argument. I'll deal with the second argument first. Your Lordship, the law and economics argument is fairly straightforward in terms of what transpires is, that if LMVs and every other category is treated as equal, then what transpires is that, as soon as an accident is committed or an accident takes place and the insurance company is saddled with the liability. Over a period of time what happens is that, premiums across the market tend to increase. They may not increase in one go, but over a period of time, these premiums try these premiums try... these premiums keep inching upwards. The difficulty with that comes to the fore at a later point in time, because all these monies are collected from the general public at large. Now, as soon as they're connected from the general public at large, one way to say it is

1 that, insurance companies will be carrying out their own actuarial exercises, and basis all that,  
 2 they will be arriving at this in terms of minimizing the risk output. The other way to look at it  
 3 is that, even within insurance companies, because this is a uniform... this is a uniform  
 4 horizontal application, what transpires is that, every insurance company is then forced or is  
 5 then compelled to enhance the premiums, and over a period of time, due to this statutory  
 6 interpretation which is put in place, those premiums increase, and the general public is  
 7 affected at large on an adverse basis. That's the argument on law and economics. Next... Sorry.

8  
 9 **JUSTICE P. S. NARASIMHA:** Interesting that you took up the principle of law and  
 10 economics of Fuller, but there's another side also of it. So, don't permit them to be utilized like  
 11 that. Large amount of employment will also be affected, because people... now the modern  
 12 methods of transportation are such that one can pull in a private vehicle and use it as a  
 13 transport vehicle. If you don't utilize it... if they don't utilize it, then there's a lot of deprivation.  
 14 That's also an economics' argument for interpreting the law.

15  
 16 **SHIVAM SINGH:** Certainly. Your Lordships are absolutely right, which is why the Union,  
 17 when it's coming up with the amendments in question, and when it is deliberating upon that,  
 18 will perhaps be best equipped to answer it. But at the present form, in the manner in which  
 19 this statutory conflict is being addressed, the difficulty is that instead of the nature of the  
 20 vehicle, the weight becomes a predominant category. And as soon as that comes into play,  
 21 there are very limited defences or very limited arguments which an insurance company can  
 22 put forth despite it saying that this is not a valid transport license or a valid driver's license.  
 23 So, at that point in time, the impact inches forward. It may not be felt in the immediate go, but  
 24 over a few years or over a few financial years, that definitely kicks in.

25  
 26 **JUSTICE HRISHIKESH ROY:** Counsel, you're projecting the impact, the economic impact  
 27 and the actuarial exercise that the insurance companies are bound to do, if they are having to  
 28 shell out more by the way of claims. Now, *Dewangan* has been in operation for last, how  
 29 many years now? 7-8 years?

30  
 31 **SHIVAM SINGH:** Yes, Your Lordships.

32  
 33 **JUSTICE HRISHIKESH ROY:** Is there any empirical data to suggest that there has been  
 34 an increase of premium or an actual exercise, or are you just speculating that such a thing  
 35 might happen? Because you are talking about economics here and we would want and expect  
 36 figures.

**SHIVAM SINGH:** Certainly. Your Lordships, there is no empirical analysis conducted for the precise reason, that as soon as this is something which is brought to the fore, the IRDA, which is the insurance sector regulator, it will cut down on this or it will stamp down on this due to the aspect of price cartelization and all insurance companies acting in concert to inch the insurance premium upwards. So, no insurance company on its own will be conducting this actuarial analysis and putting it out in the public domain. So that's the difficulty which arises. And the second argument, Your Lordship, the argument which ties up with this is relating to contra-proferentem. The aspect which I'm trying to invite Your Lordship's attention is that an insurance policy, or, for that matter, any consumer protection policy any insurance document will be interpreted for the terms that it contains within it, and more often than not, or almost in an overwhelming set of circumstances. The insurance company is the only one which is coming out with this Policy and it's more or less a standard form document. The difficulty which is arising in the particular circumstance is that due to the interpretation which is put forth by *Dewangan*, the courts or the Tribunals below, they are stating that due to the statutory conflict, that we will interpret it in a manner which is against the insurance company, and they are stating that because there is ambiguity in it and because there is a statutory conflict on it, the Policy term must be interpreted to the detriment of the insurance company and in favour of the insurance holder. So that is a policy issue which arises for consideration because as soon as that conflict is resolved, this aspect of contra-proferentem wipes out so that's the last argument. And this is a concluding argument, Your Lordship. While Your Lordship, would answer the reference, my request would be that the matters in question be sent to the respective coordinate Benches because then their application should be tested in the particular action circumstances, because that is exactly what transpired even in the last insurance related CB of EV Multipurpose when the Five Judge Bench interpreted Section 32 and dealt with the aspect of written statements and what is the mandatory timeline for fixing it. And after that, those matters have come up before the respective Coordinated Bench.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Thank you.

**SHIVAM SINGH:** I'm grateful for the patient hearing My Lordships.

**JAYANT BHUSHAN:** Before he starts, can I take half a minute My Lord? Justice Narasimha's query on what is the economics of people who are not allowed to drive. Just on that they may not be able to use these transport vehicles unless .... answer is very simple, that if you need to have a certain expertise, experience, et cetera, then you can get that. You can sit for a test, you can get that certificate from the driving school, sit for a test and get the authorization or the endorsement of driving a transport vehicle. It's not that these people will

1 be debarred from driving a transport. All that they need to do, if they need a certain experience  
 2 or expertise they must get it before they drive that kind of vehicle because  
 3 otherwise My Lord they are a danger on the road.

4  
 5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** That point you made last time. Thank you.

6  
 7 **R. VENKATARAMANI:** I didn't want to say anything, we will attract an argument on both  
 8 sides. But the Union has taken a stand. There was an issue for updating  
 9 the notification. Before appearing for that I don't think I can take any contrary stand today till  
 10 the law is amended, but because of the interlocking...

11  
 12 **CHIEF JUSTICE D. Y. CHANDRACHUD:** They have adopted the amendment.

13  
 14 **R. VENKATARAMANI:** But because of the interlocking definition, I find all these conflicts  
 15 have arisen. The public service vehicle, private service vehicle... so all that is because of the  
 16 interlocking definitions. So, I don't find Section 3, can be read in a way that .....

17  
 18 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Quickly, assuming that you want to bring  
 19 about an amendment, it has to be a comprehensive amendment to the whole scheme. How can  
 20 you only amend the definition?

21  
 22 **R. VENKATARAMANI:** That's true.

23  
 24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** The amendment of the definition will not  
 25 really help you.

26  
 27 **R. VENKATARAMANI:** As I reiterate, the interlocking definitions are there, which has led  
 28 to this problem.

29  
 30 **[INAUDIBLE]**

31  
 32 **R. VENKATARAMANI:** That's right.

33  
 34 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But amending the definition can not...

35  
 36 **R. VENKATARAMANI:** I don't think Section 3's construction has placed...may  
 37 be appropriate. I don't want to say anything beyond that.

**JUSTICE HRISHIKESH ROY:** Mister Attorney, before you sit down, there's a notification we saw last time giving effect to what was declared as the law in *Dewangan*. Right? Now, today you are saying that, that is the Union of India's stand on the law until the amendment exercises is carried out by the [UNCLEAR]...is that what you're trying to say?

**R. VENKATARAMANI:** That's right.

**JUSTICE HRISHIKESH ROY:** Alright. Because there should not be any confusion on this.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Last time you had said, the Union of India will withdraw the notification and issue fresh guidelines and rules. That is already... That's no longer the....

**R. VENKATARAMANI:** My Lord, I mean... Going by the notification, I find Section 3 construction....

**DEVVRAT:** My Lord, the last occasion, My Lord, we have all given our written submission.

**ANUJ BHANDARI:** I'm yet to argue.

**DEVVRAT:** Two of us have completed the arguments. Mr. Bhandari was on his legs and Ms. Shenoy, was yet to speak.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Devvrat argued, and Mr. Kaustubh was to argue.

**ANUJ BHANDARI:** I was on my legs, My Lords.

**DEVVRAT:** He was arguing. And Ms. Shenoy has yet to...

**KAUSTUBH SHUKLA:** And I will only give a small overview of my arguments at the end. I'll only like to freshen up, My Lord, because, I had argued upon the cross legs point and also upon the syllabus, which I want to just, point it out.

**ANUJ BHANDARI:** I was on my legs when My Lords had issued a notice to the Union. Now, first thing I want to, which has been missed out, and there's some confusion regarding "How the Act amendments came into place?" Because that will give us insight as to how to interpret them. My Lord, may have page 69 Mr. Dave's submission, that is *Mukund Dewangan's* judgment. Para 7 of that judgement. That's very crucial. *Mukund Dewangan's* judgment, para 7. That gives an excerpt of the Act which stood prior to '94 amendment.

**JUSTICE P. S. NARASIMHA:** You are [UNCLEAR] ask us to the written submissions in bookmarked one or the final one?

**ANUJ BHANDARI:** My Lord, page 69.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes, we got it.

**ANUJ BHANDARI:** Para 7 of the *Mukund Dewangan* case?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ANUJ BHANDARI:** Yes. Para 7 says, "Section 10 deals with the form and contents of the license to drive. Section 10, as it stood before the amendment made in '94 by virtue of Amendment Act '54, is statuted as under." Clause 2, My Lord, "The Learner's License or as they may, Driving License and also be expressed in as entitling the holder to drive a motor vehicle or one or more of the following cases. One, motorcycle without gear, motorcycle with gear, invalid carriage, Light Motor Vehicle, Medium Goods Vehicle, Medium Passenger Motor Vehicle, Heavy Goods Vehicles, Heavy Passenger Motor Vehicle, Road roller motor vehicle of specific categories." So, there is no mention of any transport vehicle. There is no concept of transport vehicle under Section 10. Medium Goods Vehicle and Medium Passenger Motor Vehicle. So, transport vehicle is either goods or passenger. So, they have specifically divided it into two, that medium goods vehicle and medium passenger vehicle. But no such division is there in transport in LMV, Light Motor Vehicle.

So, all that indicates that 'all', even goods and passenger vehicle can be driven by a license under LMV, provided it is below 7,500. That is the law as it stood as of 1994. Now, I asked a question to myself. I am an auto driver in 1993. I'm driving transport vehicle, and I want a license. Which license would I get? Obviously, I'll get a Light Motor Vehicle; there is no concept of transport vehicle. And that license is valid for next 20 years. So, from '94 to next 20

1 years, during the regime of '94 to 2018, when the new Act came, I was having a valid license  
 2 of LMV and I could drive and auto rickshaw or whatever, and the entire country was doing it.  
 3 Read this with Form 4, which is at page 75. Page 75. This is Form 4 - Form of Application for  
 4 License to Drive a Motor Vehicle. This mirrors the Section 10. So, even licenses were being  
 5 issued under these categories. So, both transport and non-transport vehicle under 7,500 were  
 6 being driven under LMV license. This is very clear. There's no concept of... Now, how was it  
 7 introduced? My Lord may go back to para 10.

8  
 9 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Just pause. This Form 4 held the field from  
 10 1989 to 2000, right?

11  
 12 **ANUJ BHANDARI:** Actually, 1994 was the amendment. The form was changed later on in  
 13 2001.

14  
 15 **CHIEF JUSTICE D. Y. CHANDRACHUD:** 2001, yes.

16  
 17 **ANUJ BHANDARI:** So, actually, in reality, in practical application this position held field  
 18 from 1988 to 2001... 1989. Now, My Lord may have para 10, what was amendment done? This  
 19 is post-1994 Amendment. "This legislation has been prepared in light of the..."

20  
 21 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Page 76, right?

22  
 23 **ANUJ BHANDARI:** My Lord, I think I have a different page. Page 71, it shows.

24  
 25 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Right.

26  
 27 **ANUJ BHANDARI:** So now, the four categories, which are read - goods and passenger of  
 28 both medium and heavy, were subsumed into one, and made it into transport vehicle. So, this  
 29 is what a transport vehicle means. LMV is still there. LMV is something else. So, those four  
 30 categories became one. And idea was to simplify. My Lord may have... it's just a page above,  
 31 this is Item E, giving para 4. "Therefore, the proposed legislation has been prepared in light of  
 32 the above background. The bill *inter alia* provides for modification and application of certain  
 33 definition of E type of vehicle. Simplification of procedure for grant of driving  
 34 license." **Mukund Dewangan**, I'll read the paragraph later, says, that the reason for  
 35 amendment was to simplify. Having so much confusion of four different type of vehicles  
 36 doesn't make sense. So, I have just one transport vehicle. Now, what flows from this is that the  
 37 entire quote that I have read that the transport vehicle requires a better training, better course

1 and more license requirements, is *qua* this transport vehicle, these four. I'll give an example.  
 2 My Lord may have the course requirement. My Lord may have 449. This is regarding syllabus.  
 3 449, Rule 31, which they read.

4  
 5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** 449, the same one, right?

6  
 7 **ANUJ BHANDARI:** Yeah. This is same document, 449. Rule 31 My Lord has?

8  
 9 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

10  
 11 **ANUJ BHANDARI:** "Syllabus for imparting instruction in driving motor vehicles". I'll read  
 12 Rule 3, Sub-rule 3. "The lessons for training drivers of transport vehicle shall cover E, F, G, H,  
 13 I, J, K". Let's see what they are. My Lord may go down. May come to 451 i.e. Syllabus E -  
 14 Medium and heavy vehicle driving theory. Now does the auto rickshaw driver need to pass this  
 15 exam as medium and heavy vehicle driving theory?

16  
 17 **JUSTICE HRISHIKESH ROY:** 451? What are you reading?

18  
 19 **ANUJ BHANDARI:** My Lord, I am reading page 451

20  
 21 **JUSTICE HRISHIKESH ROY:** 451. What is the document number?

22  
 23 **ANUJ BHANDARI:** This is Chapter E. I read Rule 3, which provides that transport vehicle  
 24 course has to be E, F, G, H, I, J, K. E is medium and heavy vehicle driving theory. F... again, H  
 25 is ....page 454, is heavy vehicle driving practice. So the idea being, transport vehicles when  
 26 used under the Act refers to medium and heavy vehicle. Let's not confuse transport vehicle  
 27 with the weight category. Transport vehicle is a different concept, I'll come to that. Act goes by  
 28 the weight theory. My skills are determined by the weight of the vehicle I am driving, not the  
 29 nature of use. That's the theme of the Act, and I'll make that good. Even the definitions are  
 30 very clear about it. So this was the provision post '94. So '94 consumes those 4 definitions into  
 31 one which is very critical. How was transport vehicle introduced? So only those people driving  
 32 a heavy vehicle... My Lord, may have Section 7 again for a moment. Section 7. "No person shall  
 33 be granted Learner's License to drive a transport vehicle unless he has held the driving license  
 34 to drive a Light Motor Vehicle for at least one year." This was introduced in '94. What does  
 35 this mean? That, prior to getting a transport vehicle license, I need to drive an LMV for one  
 36 year. So it doesn't mean that on the same license I'll get an endorsement  
 37 ..sorry, Learner's License. Learner's License and transport vehicle here means those heavy



vehicles not those regular vehicles. And it was introduced in '94 along with the amendment to the definition. This was not prior to '94. That's the idea. That's the theme of the Act. Now My Lord, may I have my written submission. I'll show how does the Act work, because even the last time My Lord, had put to us, My Lord may I have page 57 of written submissions for the Respondents and Claimants. My Lord, Anuj Bhandari, we have filed a consolidated written submissions for the Claimants and Respondents. My Lords page 57 is my submission.

**ANUJ BHANDARI:** My Lords, may I?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ANUJ BHANDARI:** So my first argument was that, this was '94 Amendment. Then the *Mukund Dewangan* regime came. *Mukund Dewangan* was decided in 2017, post that they have implemented in 2018 *Mukund Dewangan*, there were two amendments which very clearly says that LMV is something else, and transport is confined to heavy and light. So next 7 years till date, that regime continues and the learned AG has also agreed to that. So my first submission was what is the provision we are actually interpreting? We are actually interpreting '94 to 2018 and any interpretation, gives, My Lord, would have to decide if My Lord wants to give it a retrospective operation or not? Or because all the claims, it is effectively all regarding the claim. Theoretically we can argue on, but practically those claims have already been decided the seven years back claim. Now to change that settled law, and people would have got it. Now to change that and re-open those cases, My Lord, might reconsider that.

Having said that, My Lords I am on my second submission. Just on a sideline, the new submissions are not under the challenge, the new amendment are not under challenge My Lords. Not decided by High Court, not decided by DB of this court, not three judges. There is no occasion for... to My Lord, directly interpret the new amendment, because every time they'll make amendment in the Rules, Constitution bench... that's my submission that you should not really sit and interpret every time a new amendment is made to the Rules. What is before My Lord, is regime between 1994 to 2018. Having said that, 62, I have made a table. "How does this Act work?" Now there is classification based on weight.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** 62?

**ANUJ BHANDARI:** 62. Submission 3. This is the written submission, consolidated written submission, I was referring.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ANUJ BHANDARI:** This is how the Act works. So, there is classification based on weight, which is obviously medium, light medium and heavy. Then there is a classification based on description or type. Which is, motor car, transport vehicle, omnibus, road roller, tractor, adapted vehicle, motor cycle. And thirdly, there is sub-classification, which is passenger or goods, private or public and educational. Now, how do I get that? My Lord may have the definitions. So, they can't really compare Light Motor Vehicle with transport vehicle. That is what my submission would be. My Lords may have the definition for it. I'll read the definition of motor car, which is 317 of Mr. Dave's submissions. This is the Act, definition 2, Clause 26, "Motor car." "Motor car means any motor vehicle, other than a transport vehicle, omnibus, road-roller, tractor, motorcycle." So, what is a motor car? Anything except these five. So, now this becomes a complete set. They become a class together, they become a class in themselves. Other than a transport vehicle. There is no requirement for any weight category here. "So, motor car means a motor vehicle other than a transport vehicle, omnibus..." So, they together form one category, based on description. My Lords may have the definition of light motor vehicle. Means... That is 21... "Means a transport vehicle or omnibus, the gross vehicle weight of either of which or motor car or tractor or road roller, laden weight of which does not exceed 7500. Then medium goods, any other goods carriage, other than light vehicle or a heavy goods. Medium passenger means any public vehicle or private service vehicle or education institute bus other than a motorcycle, adapted vehicle, Light motor vehicle or heavy. So, they three together from one class, light, medium and heavy.

So, there's a one class *qua* weight, one class *qua* description. Now, My Lord may have that table again. My submission here is, page 62 of my written submission, that these are water tight compartments and you can't transpose, take one and put it in other compartment. What they want to do is, compare transport vehicle and put it in the weight category, or take LMV and put it in the description category. Now, entire Act is based on the weight category. The way licenses are granted, the requirement for licenses, my skills, are all regarding weight. Now....And licenses are not granted on the category of description. Because there's no license granted for motor vehicle. Exception is a tractor, because there is a specific provision in Section 10 for tractor. But except that, under this category, there's no license for motor car. There's no license for a tractor.... for adapted vehicle.

A motorcycle and a tractor... I'm sorry, road roller. Motorcycle and road roller are specific categories. Now assume, let us assume that it is granted *qua* a transport vehicle. There's no

1 provision for a motorcycle transport vehicle. The licenses they have been showing are all post-  
 2 2018 Amendment. None of those licenses were prior to that. The rules they have read, the rules  
 3 which are annexed are post 2018, latest rules, which doesn't justify what transpired from 1994  
 4 till 2018. Now, each time there was an amendment, in 1994 when there was an amendment,  
 5 the licenses already in place were not invalidated. So, when I was holding that license, I had  
 6 good... it was valid for next 20 years. All those accidents which might have taken in next 20  
 7 years, were of the license which I held prior to 1994. So, the intention was not to invalidate the  
 8 prior license and a new regime comes in. And then in 2018, invalidate all those licenses again  
 9 a new regime comes in. Those licenses were valid all throughout, and they were granted  
 10 pursuant to this, where I always had... my options were limited in 1994. Post that, again when  
 11 I was driving a vehicle which was less than 7,500, I had to take an LMV license.

12  
 13 My next submission is followed regarding motorcycle and e-rickshaw. Now, whatever My Lord  
 14 decides *qua* transport vehicle, would also spill over to motorcycle and e-rickshaws, because  
 15 they are also of lesser category. They are being used as transport vehicles. So, if My Lord says  
 16 no, a license has to be of a transport vehicle and not of LMV, because there's no provision for  
 17 endorsement. The section doesn't say that, the form doesn't say that. So, if I am driving a  
 18 motorcycle and I'm using it, which nowadays are being used as a transport vehicle or an e-  
 19 rickshaw, which is obviously less than 7,500, then that will also interpret that even for  
 20 motorcycle, you'll have the transport vehicle now. Now, they might come up with a new Act,  
 21 new provision saying that now it is required because of change in time, which is fine. But as it  
 22 stood for all these years, I think this was the good law. **Mukundan** lays down the good law  
 23 and interprets it correctly, because interpreting it otherwise would lead to a chaos. Everyone  
 24 would... all these licenses would become invalid because even my license today does not have  
 25 an option of NT or T when I took the license.

26  
 27 Then, My Lord, regarding safety and skills. I say that if you grant a license... Now, there was  
 28 an impleadment filed by some NGO that it would lead to safety if you have a separate... if they  
 29 don't have a transport vehicle license. I ask myself, My Lord, if a person holding transport  
 30 vehicle license is allowed to drive all kinds of vehicles, then an auto rickshaw driver would  
 31 tomorrow start driving a heavy vehicle, because idea is not to grant license on the basis of  
 32 description, it has to be again on the basis of weight. And that's the Legislature's domain; they  
 33 have decided 7,500. That is it. They can make it lesser, make it 2,000, make it 3,000, have  
 34 another category. Till the time... because I think that is one of the proposals in  
 35 the new amendment. 3,500 is the proposed amendment. My Lord, may have Section 183, that  
 36 is 407 of Mr. Dave's submissions... 406. Section 183. Driving at excess speed.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** We'll come back after lunch. How long would you take, roughly?

**ANUJ BHANDARI:** 10- 15 minutes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** We're wrapping it up. We'll give you a little time.

**ARCHANA DAVE:** I will take just five minutes to counter these questions with regard to...

**KAUSTUBH SHUKLA:** After Mr. Bhandari, we will just refresh, My Lord. Whatever we have argued, we will just refresh it.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhandari, you take your time.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** My sincere apologies for the delay. Yes, Mr. Bhandari.

**ANUJ BHANDARI:** Very briefly, what I have argued till now, bullet points. Firstly, My Lord, I have stated the amendments, which has happened. And till date there has seen a constant stream undisturbed which is *ad idem*. There's no disturbance. The interpretation has been constant. The amendments have been constant. Secondly, the Act provides for three different blocks. One is *qua* the weight, then *qua* the use and the subcategory. These blocks, the items can't be transposed from one to another and the licenses have traditionally been granted only *qua* the first column that is *qua* the weight. Now, coming to the core issue, which is there My Lord. The main question of law which is to be addressed is not just that, whether a person having LMV can drive a transport vehicle. It is.... The fundamental issue here would be the term 'transport vehicle' used in Section 10, does it mean the term which it replaced in '94 Amendment, the four terms it replaced? Or does it mean the definition under the act, because then definition includes everything. So that is what My Lords have to address. My Lord may have Section 10 for a moment again. Clause 2, a learner's license, as the case may be... My Lord has it?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Just one second. Section 10(2)?

**ANUJ BHANDARI:** Section 10(2). A learner's license or as the case may be, driving license shall also be expressed as entailing the holder to drive motor vehicle of one or more of the following classes: namely, motorcycle without gear, motorcycle with gear, adapted vehicle, light motor vehicle, transport vehicle, road roller, motor vehicle, specific description. So what does the transport vehicle mean here? That's the issue. Now, if for a moment I can apply for license of any of these categories. Their case is, they are taking two contrary stands. On one stand, they are saying that you have...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** What is meant by 'expressed as entitling'. The words are expressed as entitling. Does that mean that the license has to specify which of those categories the license covers?

**ANUJ BHANDARI:** My Lord, license has to specify the category it is covering.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** So suppose in that case you know, it says one or more category or one or more classes.

**ANUJ BHANDARI:** Yes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** So suppose somebody can... is entitled to drive a LMV as well as a transport vehicle, the license should specify LMV/transport vehicle.

**ANUJ BHANDARI:** Let's test at that proposition. That's exactly what I meant...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** We are just enquiring of you.

**ANUJ BHANDARI:** That is exactly the issue. Now, let us say I have to apply for a license. I'm an auto rickshaw driver. Let's stretch it to both the extremes. I'm an auto rickshaw driver and I need a license. I won't be applying for both of them. I'll be applying for transport vehicle license that I can get. That is their case that you are driving a transport vehicle on a license of LMV. So I applied for a transport vehicle license and I get a transport vehicle license. Now let us read the definition. Will I be entitled to drive everything which transport vehicle covers? Or will an auto rickshaw driver, as we saw the syllabus, need to first learn how to drive a heavy vehicle, get a clearance of heavy vehicle license, and then come and drive an auto rickshaw? Let's look at the definitions for a moment. My Lord, V16 of the compilation of Mr. Dave.

1 **CHIEF JUSTICE D. Y. CHANDRACHUD:** It is 247, right?

2  
3 **ANUJ BHANDARI:** My Lord, sorry....

4  
5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** The vehicle is 247.

6  
7 **ANUJ BHANDARI:** Okay. So I'm reading Section 2, Clause 16. There are a few definitions I  
8 want to read, and My Lords may look at these definitions in light of my submissions. Heavy  
9 goods vehicle means any goods, carriage and gross vehicle.... I'm sorry My Lords. Let's start  
10 with motor vehicle. That's the basic definition. 28, that is the mechanical definition of what a  
11 motor vehicle is. That's like top of the pyramid. That's the mechanical, technical definition.  
12 Means any mechanically propelled vehicle adapted for use upon roads, whether the power of  
13 propulsion is transmitted through, My Lord, the definition is technical, I don't want to read  
14 it in entirety. That's where it starts. Now then, there are 3 classes based on weight.  
15 My Lord, may have light motor vehicle first, 21. Light motor vehicle means a  
16 transport vehicle. That is very critical. Means a transport vehicle. It's already included or  
17 omnibus, the gross vehicle weight of either of which or a motor car or a tractor. So transport  
18 vehicle... light motor vehicle includes a transport vehicle, a motor car and a tractor. It includes  
19 all three, essentially everything under 7500 kgs. Then My Lord may have medium goods  
20 vehicle, 23. Means any goods carriage other than light motor vehicle or heavy goods vehicle.  
21 So exclude light and heavy, everything in middle is medium. And there are two definitions,  
22 medium goods and medium passenger, essentially dividing them in two. And same goes for  
23 heavy. Heavy is 16.

24  
25 So means any goods carriage, the gross weight of which, or a tractor or a road roller, laden  
26 weight/unladen weight of either of which exceeds 12,000 kg. Heavy passenger motor  
27 vehicle, 17, means any public service vehicle, private service vehicle, educational bus or  
28 omnibus, the gross weight of which... or a motor car, unladen weight of which... So motor car  
29 is included in all three of them. Tractor is included in all three of them. And by definition,  
30 transport vehicle is included in all three of them.

31  
32 Now let's have transport vehicle, 47. Transport vehicle means public service vehicles,  
33 a goods carriage, an educational institution bus or a private service vehicle. So I can read  
34 definition of each one of them, but broadly, the principle is if you are carrying passengers,  
35 then it goes under the passenger, and if you are carrying goods, it goes under the goods.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Then, why does Section 10 specify transport vehicles and light motor vehicles separately?

**ANUJ BHANDARI:** Yes. That's the point. My submission is, originally it was heavy and medium, prior to '94 Amendment. Why it was replaced is, those four terms were replaced by the word 'transport vehicle'. It did not bring in the entire definition of transport vehicle there. It is just a nomenclature. Instead of four, I am giving you one package. That was the idea. Now because, if you read transport vehicle...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** It includes an LMV.

**ANUJ BHANDARI:** It includes LMV. A transport vehicle is also there in medium, and transport vehicle is also there in heavy.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** It's the usage.

**ANUJ BHANDARI:** Yes. So transport vehicle is of all three categories. Motor vehicle is also three categories. So if you are giving license for transport vehicle, then give a license for motor vehicle as well; a separate license, a separate endorsement. How is transport vehicle a special category? The definition of 'light motor vehicle' says, means a transport vehicle or omnibus, the gross weight, of which either... of which a motor car or tractor. So, give an endorsement for motor car as well.

Second point. That's not the idea. Idea is that it replaced read it as confined to those heavy and medium. It does not bring in that every category of transport vehicle. Now, the second submission I was making. If I get a license of transport vehicle, then by definition, it can be either light, heavy or medium. So now, just by one license, I can drive all of them.

**JUSTICE P. S. NARASIMHA:** See, broadly, that's the reason. Driving license under 10, 2(10).

**ANUJ BHANDARI:** 10. "Driving license means the license issued by competent authority under Chapter 2, authorizing the person specified herein to drive otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description". Fairly broad demolition.

**JUSTICE P. S. NARASIMHA:** That's fine. That's the reason.

**ANUJ BHANDARI:** Let's read Section 2 itself, the opening lines, definition. "In this Act, unless context otherwise requires." So the context of Section 10 is different. They want to bring in entire definition of transport vehicle in Section 10.

**JUSTICE P. S. NARASIMHA:** The other submissions made by your colleagues on the other side on the structure of a statute with respect to Section 4, Section 7, 9, 10, 14(2)(a), where specifically at every stage, there is an additional and a special requirement so far as the transportation vehicle is concerned. How do you...?

**ANUJ BHANDARI:** Of course. There has to be. Someone is driving a heavy vehicle or a medium vehicle, they have to...

**JUSTICE P. S. NARASIMHA:** So, you say that additional requirement is not something *qua* license. That's your argument?

**ANUJ BHANDARI:** That's right, yes. That is because Section 10 deals specifically with the license and so does Form 4. So when you are giving a license, it has to be read in the context that it replaced those four terms, that's the idea. It is just a nomenclature for those four terms together, medium goods, medium passenger, heavy goods, heavy passengers. So it replaced that. That is how it was born that under Section 410.

**JUSTICE P. S. NARASIMHA:** So statute prescribes, what additional requirement is there for a transport vehicle. But then the statute does not 'prohibit' or 'prescribe any special conditions for obtaining a transport vehicles.' LMV itself is sufficient is what you are using.

**ANUJ BHANDARI:** Yes. So question is then 'how do you interpret'?

**JUSTICE P. S. NARASIMHA:** But then how does....

**ANUJ BHANDARI:** So Section 10. I propose that.....

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Is it your contention that if you have an LMV license, then without fulfilling the additional conditions that you are entitled to drive a transport vehicle.



**ANUJ BHANDARI:** I can drive a transport vehicle which is under LMV category. I can drive everything which is under LMV category as defined under the act. LMV includes, how can you, how can we include, exclude transport vehicle when the definition provides that it includes transport vehicle. Section 2. Clause 21, "Light Motor Vehicles means a transport vehicle." So it's always there. So as soon as I acquire a license.....

**JUSTICE P. S. NARASIMHA:** What is the description so far as those additional conditions for a transport vehicle then? They come to be enforced then. How do they draw a distinction between.....

**ANUJ BHANDARI:** Now the Act, the way it is working today is very clear. LMV, you take a license, drive every kind of LMV vehicle. As soon as you go into medium and heavy category, then you have to fulfil all those criteria required.

**JUSTICE P. S. NARASIMHA:** So that fulfilment is not a requirement of a license is what you're saying?

**ANUJ BHANDARI:** No license, I'm getting, if I'm getting that transport vehicle license.

**JUSTICE P. S. NARASIMHA:** Only LMV license, but you are actually using the vehicle as a transport vehicle?

**ANUJ BHANDARI:** Yes.

**JUSTICE P. S. NARASIMHA:** Then when you are using it, the requirements provided under the various, under the sections and the rules, suppose they are not fulfilled. Then how does enforcement take place?

**ANUJ BHANDARI:** Let's have that Section again My Lord. Rule 31, which was the main contention there. Page 449. "Syllabus for imparting instruction in driving motor vehicles." 'Syllabus for imparting instruction driving motor vehicle for school or establishment shall be as follows. The lessons for training drivers of non-transport vehicles shall cover A, B, C, D... A, B, C, F, G, K that is Clause 2 and Clause 3 is lessons for driving transport vehicles shall cover E, F, G, H, I, J, K.' I was on page 449, Rule 31. My Lord has it?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ANUJ BHANDARI:** So Clause 3, provides that E, F, G, H, I, J, K are the syllabus I have to cover to get a transport license. Now look at this and A, B, C, F, G, K are for 'non-driving.' Tables, gives (A) Driving Theory, fine. (C) is Light Vehicle Driving Practice. (D) is Vehicle Mechanics and Repair. (E) which is for Transport, 'Medium and Heavy Vehicle Driving Theory'. Their broad contention is you need to have a specialized training, a specialized course you have to clear. That's their submission. So what course I have to clear? Medium and Heavy Driving, Vehicle Driving. So how does a LMV holder need to first learn because next (E), (F) is Traffic Education, (G) is Heavy Vehicle Driving Practice. It's absurd, like I said a small auto rickshaw driver has to first practice a Heavy Vehicle, not even Medium. Heavy Vehicle Driving Practice and then get a license for auto-rickshaw.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Also just throwing up an alternative construction, which may actually carry your argument. 'All Transport Vehicles are not light Motor Vehicles, right?

**ANUJ BHANDARI:** Yes...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Right?

**ANUJ BHANDARI:** Yes. Definitely.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** So if you are driving a transport vehicle other than a vehicle, which falls under 221, can be the definition of Light Motor Vehicle. Then you have to fulfil the additional requirements. But if the Transport Vehicle which you are driving is a Light Motor Vehicle within the meaning of 21, then the condition which you have to fulfil are those of a light Motor vehicle for obtaining a license and not of a transport vehicle. It is a little bit of an ambiguity in the end.

**ANUJ BHANDARI:** If I may take the same arguments forward, My Lord, what I have propose is...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Therefore, if you see now again when you saw Section 10, it includes light motor vehicle and it includes transport vehicle. And I asked you the question if transport vehicles are subsumed in light motor vehicle, why did that provision mention both separately. A transport vehicle, which is within the weight of 7500 is

1 a Light Motor Vehicle. So the reason why they have mentioned transport vehicle here in 10, is  
2 that this entry covers those which are not light motor vehicles.

3  
4 **ANUJ BHANDARI:** Correct, exactly.

5  
6 **CHIEF JUSTICE D. Y. CHANDRACHUD:** So possibly can your argument  
7 be rephrased? Then just think over it. Don't say yes because it's just I'm putting it to  
8 you. Could it possibly be that well, if you are driving a transport vehicle, which is a light motor  
9 vehicle then you don't have to fulfil any of the other additional conditions for a  
10 transport vehicle?

11  
12 **ANUJ BHANDARI:** Correct, My Lord. What is falling from, I subscribe to that. I'll add to  
13 that rather. If Section 10 is read because first part, a motorcycle without gear, motorcycle  
14 with gear, now going by the definition of transport vehicle if I am carrying goods of people in  
15 a motorcycle, which is happening today, it will fall under definition of transport vehicle.  
16 So the way it can be interpreted is, you take away from transport vehicle, motorcycle with  
17 gear, motorcycle without gear adapted vehicle, light motor vehicle.....

18  
19 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Is a motorcycle a transport vehicle?

20  
21 **ANUJ BHANDARI:** It will be if it is carrying .....

22  
23 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Because see, the definition of transport  
24 vehicle, 47, means a public service vehicle.

25  
26 **ANUJ BHANDARI:** Or a private service vehicle.

27  
28 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Public service vehicle, see it won't be a private  
29 service vehicle if it has to carry more than 6 persons.

30  
31 **ANUJ BHANDARI:** My Lord, I will just read the definitions, transport vehicle means  
32 public service vehicle, a goods carriage, an educational institution, bus or a private service  
33 vehicle. Now let's read private service vehicle. Private service means a motor vehicle  
34 constructed or adapted to carry more than 6 persons excluding the driver and ordinary use on  
35 behalf of owner of such vehicle for purpose of carrying persons or in connection with  
36 trade, business, otherwise other than for the higher reward, but does not include motor  
37 vehicles used for public purpose. Now public service vehicle means any motor vehicle used,

1 this is 35, or adapted to be used for carriage of passenger or higher reward and includes a maxi  
2 cab, motor cab, contract carriage and stage carriage.

3  
4 **CHIEF JUSTICE D. Y. CHANDRACHUD:** [UNCLEAR] will not be there.

5  
6 **ANUJ BHANDARI:** No. Any motor vehicle, it uses the word motor vehicle, goes back to the  
7 mechanical definition.

8  
9 **JUSTICE P. S. NARASIMHA:** That is there in 33. But 33 talks about the number of  
10 persons

11  
12 **ANUJ BHANDARI:** No. 35. I'm talking about. 35 means any motor vehicle used or adapted  
13 to be used for carriage of passengers, so motor vehicle, which includes a motorcycle.

14  
15 **CHIEF JUSTICE D. Y. CHANDRACHUD:** I cannot apply for only motorcycle.

16  
17 **ANUJ BHANDARI:** Today you have those Ola, Uber motor cabs.

18  
19 **CHIEF JUSTICE D. Y. CHANDRACHUD:** That category, you may be right.

20  
21 **ANUJ BHANDARI:** Yes, I'm talking about that category. Then it is used as a transport  
22 vehicle. Even my car, it is a private car, but when I'm using it as a transport vehicle...

23  
24 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Then it becomes a public service.

25  
26 **ANUJ BHANDARI:** Yes. So then, now do I need to abide by all the requirements they say  
27 that a transport vehicle is required to have a driving license? Have those heavy vehicle tested,  
28 even though that part is excluded specifically for motor vehicle. But rest of the requirements  
29 for a transport vehicle.

30  
31 **CHIEF JUSTICE D. Y. CHANDRACHUD:** So could it have been the intent of the  
32 legislature that you know the enhanced requirements will apply where the laden weight is  
33 more than 7500?

34  
35 **ANUJ BHANDARI:** Yes that's what. We go back to the same, that prior to 94, those were  
36 those four terms, heavy and medium.

1 **CHIEF JUSTICE D. Y. CHANDRACHUD:** They combined them into one category.

2

3 **ANUJ BHANDARI:** Of transport vehicle. So when transport vehicle is used broadly, it is  
4 used *qua* that heavy and medium.

5

6 **JUSTICE P. S. NARASIMHA:** Additional requirements will apply only when [UNCLEAR]

7

8 **CHIEF JUSTICE D. Y. CHANDRACHUD:** [UNCLEAR]

9

10 **ANUJ BHANDARI:** Yes. so obviously we are not shying away the fact, we are not even  
11 opposing this that there are additional requirements for transport vehicles.

12

13 **CHIEF JUSTICE D. Y. CHANDRACHUD:** But those transport vehicle, we don't fall in the  
14 category of light motor vehicle.

15

16 **ANUJ BHANDARI:** Precisely. If I'm getting a light motor vehicle under Section 10, I can get  
17 all these four licenses. So if I am getting light motor vehicle, I can drive everything under  
18 light motor vehicle. When I am getting transport vehicle license that has to be *qua* that heavy  
19 and medium.

20

21 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Kaustubh is shifting his head. He doesn't want  
22 to contradict that. We see a lot of things from this side also. Mr. Kaustubh, you can certainly  
23 respond, because this is an exercise for interpretation. There's no... after him because he'll just  
24 finish now.

25

26 **ANUJ BHANDARI:** Now, My Lord, their broad contention was that one...

27

28 **CHIEF JUSTICE D. Y. CHANDRACHUD:** ...Act, which is 54 of 1994, was there any  
29 Statement of Objects or notes or clauses....

30

31 **ANUJ BHANDARI:** Yes, *Mukund Dewangan*. My Lord may have *Mukund*  
32 *Dewangan* for a moment. Para 7 is that amendment, and then it... yes, para 7 is the earlier  
33 provision. The, para 9 it gives the object and reason. That would be page 69 of Mr. Dave's  
34 submission. Para 9. If I may be read My Lord? Para 9, "The Amendment has been made in  
35 Section 10 by virtue of Amendment Act of 1994." Para 9 I am reading of *Mukund*  
36 *Dewangan*. Para 9, "Amendment has been made in Section 10 by virtue of Amendment Act

1994. The Statement of Object and Reason of the Amendment Act as being relevant is extracted”.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes.

**ANUJ BHANDARI:** “The Motor Vehicle Act consolidated and rationalized the various law regulating road transport. The Act came into force with effect from 01-07-89, replacing Motor Vehicle Act, '39. After coming into force, the Motor Act '88, the government received a number of representations and suggestions from the state government transport operator and member of public regarding the inconvenience faced by them because of operation of some of the provisions of the Act. A Review Committee was thereof constituted by the government in March '90 to examine and review the '88 Act. The recommendation of the Review Committee was forwarded to the state government for comments, and they generally agreed with the recommendation. The government also considered a large number of representations received. After finalization of the report of the Review Committee from the transport operator and public for making amendment of that. Draft of the proposals based on the recommendation of the Review Committee and representation from the public were placed before the Transport Department. The important suggestions made by the Transport Department are related to as under: a) Introduction of newer type of vehicle in fast increasing number of both commercial and personal vehicle in the country. b) Providing adequate compensation...”

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Simplification, a) and b).

**ANUJ BHANDARI:** Yes. f) is simplification of procedure. And again, “Therefore, the Bill also says that modification and amplification” b) is simplification for grant. Now, My Lord, I want to read another paragraph now that My Lord is in... para 58, how **Mukund Dewangan** deals with it. And, I think that's the only possible interpretation of it. Para 58. My Lord has it? “Transport vehicle has been defined in Section 247 of the Act to mean a public service vehicle, a goods carriage and educational institution bus or a private service vehicle. Public Service Vehicle has been defined under 235 to means any motor vehicle used or adapted to be used for carriage of passengers for hire or reward and includes a maxi cab, motor cab, contract carriage and stage carriage. Goods carriage, which is also a transport vehicle is defined in Section 2(14) to mean a vehicle constructed or adapted for use solely for carriage of goods or motor vehicle not so constructed to adapted to use... It was rightly submitted that a person holding license to drive Light Motor Vehicle registered for private use, who is driving a similar vehicle which is registered or insured for the purpose of carrying

1 passengers or hire or reward would 'not require' an endorsement to drive a transport vehicle,  
 2 as the same is not contemplated by the provisions of the Act. It was also rightly contended that  
 3 there are several vehicles which can be used for private as well as for carrying passengers for  
 4 hire and reward. When a driver is authorized to drive a vehicle he can drive it, irrespective of  
 5 the fact, whether it is used for private purpose or for the purpose of hire and for reward or for  
 6 carrying goods in the same vehicle. It is what it is intended by the provisions of the act and  
 7 amendment of '94."

8  
 9 59: "Section 10 of the Act requires a driver to hold a license with respect to a class or  
 10 vehicle and not with respect to type of vehicle. In one class of vehicle there may be different  
 11 kinds of vehicle. If they fall in the same class of vehicle no separated endorsement is required  
 12 to drive such vehicles as Light Motor Vehicles include Transport Vehicle also, a holder  
 13 of Light Motor Vehicle license can drive all the vehicles of the class  
 14 included Transport Vehicles. It was pre-amendment position as well as post-amendment  
 15 position of Form 4 as amended on 28-03-2001. Any other interpretation would be repugnant  
 16 to the definition of Light Motor Vehicles in Section 22, Clause 21, and the provisions  
 17 of Section 10(2)(d), Rule 8 and 189 of the 1989 rules, other provisions and also forms which  
 18 are in tune with the provision. Even otherwise, the form never intended to  
 19 exclude Transport Vehicle from the category of Light Motor Vehicle and  
 20 for Light Motor Vehicles the validity period of such license hold good and apply for  
 21 the Transport Vehicle of such class also. An expression in 10(2)(e) of  
 22 the Act, Transport Vehicle would  
 23 include Medium Vehicle, Medium Goods Vehicle, Medium Passenger Motor Vehicle, Heavy  
 24 Goods Vehicle, Heavy Passenger Motor Vehicle which earlier found place in Section 10(2)(e),  
 25 10(2)(e) to (h). And our conclusion is fortified by the Syllabus and Rules which we have  
 26 discussed." Then it gives us summary.

27  
 28 **JUSTICE HRISHIKESH ROY:** Mr. Bhandari, why do you need a license? You acquire  
 29 license which certifies that you are capable of driving a particular class of vehicle, right? Now  
 30 your vehicle, whether you are driving only by yourself or there are some family members or  
 31 there are some passengers for hire, the degree of skill that you need to drive could be same for  
 32 each category of the goods or the passengers you are carrying, right?

33  
 34 **ANUJ BHANDARI:** Precisely My Lord.

35  
 36 **JUSTICE HRISHIKESH ROY:** So that is the criteria, can it be said that because today we  
 37 are carrying passenger for hire, provided we are all talking in the Category of below 7500. In

1 that case can the degree of skill needed, be different when you are taking passengers or you  
2 are self-driving or your driving your family or your driving passengers for hire.

3  
4 **ANUJ BHANDARI:** That's exactly my submission. Page 70 of my written submission. That  
5 nature of passengers won't determine my skill. I would be equally hazardous on road if I  
6 don't know how to drive it. Doesn't matter if my family is sitting there or I'm taking it for hire,  
7 someone is hiring me. My skills required would have to be same. There is a benchmark which  
8 I have to cross. Nature of passengers...

9  
10 **CHIEF JUSTICE D. Y. CHANDRACHUD:** You see, there's one very interesting thing,  
11 10(2) does not indicate that you have to have, that each of those categories represents a  
12 separate category of driving licenses. You've given example of how Transport vehicles are  
13 included in Light Motor Vehicles up to 7500,  
14 Okay. Adapted Motor Vehicle. Adapted Vehicle. (2)(c). 10(2)(c). Adapted vehicle. Now  
15 adapted vehicle is defined in 2(a). Adapted vehicle means a motor vehicle, specially designed  
16 and constructed, or to which alterations have been made under Subsection 2 of Section 52, for  
17 the use, not driving, for the use of a person suffering from any physical defect or disability, and  
18 used solely by or for such person. So, even if it's a Light Motor Vehicle, which has been  
19 adapted for a person with disability, you know you have the ramps for entering, it becomes an  
20 adapted vehicle. The license for that vehicle is a license of a Light motor vehicle. It's not a  
21 license of any other light motor vehicle, for long as it is within 7500 which is...

22  
23 **JAYANT BHUSHAN:** The license for that is for an adapted vehicle, it then makes it clear.  
24 You have to have a separate license. If I have a license for a Light Motor Vehicle, I can't drive  
25 an adapted vehicle. That is totally different. That's why Your Lordship will find...

26  
27 **CHIEF JUSTICE D. Y. CHANDRACHUD:** It is a license for an adapted vehicle?

28  
29 **JAYANT BHUSHAN:** Yes, yes. Section 10 itself says.

30  
31 **CHIEF JUSTICE D. Y. CHANDRACHUD:** That's how you are interpreting it. Suppose  
32 you have a Maruti Omni, all that an adapted vehicle requires that instead of having to step into  
33 the vehicle, you will have a ramp which comes out.

34  
35 **JAYANT BHUSHAN:** No, but several adapted vehicles have My Lord brakes, et cetera, to  
36 be used by hand, not by foot. Somebody who doesn't have a use of feet...



**JUSTICE HRISHIKESH ROY:** Somebody who is a specially challenged driving vehicle, but this is adapted for use.

**JAYANT BHUSHAN:** Yes.

**JUSTICE HRISHIKESH ROY:** ... and suffering.

**JAYANT BHUSHAN:** Correct. So therefore, for instance My Lord, a friend of mine who can't use his legs very well, he had an accident. Now his vehicle is adapted to have brakes, et cetera, and with his hands. That's an adapted vehicle. That comes under the definition of adapted vehicle. Now, surely, because that is also a Light Motor Vehicle, because it is a motor car which is under 7500 kg, it can't be said that nearly you can drive it on...

**JUSTICE P. S. NARASIMHA:** The provision relating to the adapted vehicle separate licensing process?

**JAYANT BHUSHAN:** That's what My Lord 10 says.

**JUSTICE P. S. NARASIMHA:** 10 doesn't say that.

**JAYANT BHUSHAN:** Correct, that's what it means.

**JUSTICE P. S. NARASIMHA:** Process why it is an adapted....

**JAYANT BHUSHAN:** That's why I referred to lot those judgments on *generalia specialibus non derogant* namely..

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Motorcycle without gear and motorcycle with gear. Categories of licenses.

**JAYANT BHUSHAN:** These are separate categories of licenses. Your license will show. In fact if Your Lordships sees...

**JUSTICE P. S. NARASIMHA:** If that was the case, then the act and the rules must specify different requirements, different methods, and different processes of granting distinctive licenses on the basis of 10...

**JAYANT BHUSHAN:** Process is that you will be tested on the kind of vehicle for which you are asking for a license. Your Lordship just sees My Lord, Section 9(6). Grant of driving license - he has to pass the test, if the Subsection 3. If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving license, and then Your Lordship may have My Lord Subsection 6. The test of competence to drive shall be carried out in a vehicle of the type to which the application refers. So, if you are driving an adapted vehicle, and your license is for an adapted vehicle, then it can't be that you get an LMV license, you drive on an LMV car, get a license for an LMV, and then go and drive an adapted car. No. That's why I gave those judgments My Lord of special and general. Your Lordship is right that LMV will cover transport because of the definition. But because both are there in Section 10, that these are the kind of licenses that you can get, surely, My Lord, if you are driving a special vehicle. Now, here it is absolutely clear, this adapted vehicle, namely is a special vehicle. So therefore, for that, you need to have that adapted vehicle license, not an LMV license. Otherwise, what is the purpose of having My Lord a separate adapted vehicle license? And how do you deal how do you deal with section...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Now going back to Light Motor Vehicles and transport vehicles, it is clear that all transport vehicles are not subsumed within the definition of Light Motor Vehicles.

**JAYANT BHUSHAN:** Correct, correct.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Therefore, if a transport vehicle is of a nature which does not fall in the definition of a Light Motor Vehicle, then the independent requirements for a transport vehicle has to be fulfilled.

**JAYANT BHUSHAN:** Right.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** But if a transport vehicle falls within the description of a Light Motor Vehicle, then there is no requirement under the law that you must still fulfil the additional requirements for a transport vehicle.

**JAYANT BHUSHAN:** 3(1) second part. 3(1) second part. Just have a look at 3(1) again. That's where the requirement comes from.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** 3(1)?

**JAYANT BHUSHAN:** "No person shall drive a motor vehicle in any public place unless he holds an effective driving license issued to him authorizing him to drive the vehicle". So if it was only till here, one could have said, that well, light motor vehicle, because it includes the transport vehicle under 7,500 kg, therefore you are authorized to drive a transport vehicle under 7,500 kg. But it doesn't end there. "And no person shall so drive a transport vehicle unless his driving license specifically entitles them so to do."

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Now, that is his point. There are two expressions which are used in 3(1) – authorising and entitle. Legislature has used two separate expressions, both mean different things. Authorizing means motor license endorses i.e. you are authorized to drive an LMV or an adapted vehicle, as you say. Entitlement is a matter of law. Unless you are... See, the latter part says, "Unless his driving license specifically entices him to do so". Namely, that category driving licenses entitle him as a matter of law to drive a transport vehicle.

**JAYANT BHUSHAN:** So, therefore, if he has a license for a light motor vehicle he has an authorization or an entitlement to drive a light motor vehicle.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Which includes a transport vehicle.

**JAYANT BHUSHAN:** Then what is the purpose of the second part? That becomes *otiose*?

**CHIEF JUSTICE D. Y. CHANDRACHUD:** For those transport vehicles which have an unladen weight of more than 7,500.

**JAYANT BHUSHAN:** That would not come under light motor vehicle anyway. So what is the purpose of the second part? You can't drive a heavier vehicle on the light motor vehicle category because those are not under 7,500 kgs. You can only drive the... but for the second part, you could have driven something which is below 7,500 because it is a light motor vehicle. So, the second part becomes completely *otiose*, if what my learned friend is saying is correct. What is the purpose of that second part? Remove it, you'll have the same result. It will not apply in any circumstance.

**ANUJ BHANDARI:** This Section is only *qua* Section 75(2). My Lord may have Section 3 again for a moment only with reference to... My Lords may have Section 3 again. "And no person shall so drive a transport vehicle other than a motor cab or motor cycle hired for his

own use or rented under any scheme made under Sub-section 2 of Section 75.” So for Section 75, I need a specific license. My Lord may have Section 75.

**JAYANT BHUSHAN:** It is the other way round.

**ANUJ BHANDARI:** It is *qua* Section 75 that additional requirement is made, that under the scheme of Central Government, if I am driving a vehicle.

**JAYANT BHUSHAN:** That is the other way around. It is excluding that. The requirement for a transport vehicle will not apply to that 75 to the kind of transport vehicle.

**ANUJ BHANDARI:** My Lord may have Section 75(2). Scheme for Renting of Motor Cabs. Only for that, I need a specific license.

**JUSTICE HRISHIKESH ROY:** [UNCLEAR] 75?

**ANUJ BHANDARI:** My Lord, reading it in entirety.

**JUSTICE HRISHIKESH ROY:** Read this Section 3, so that we can go to 75 thereafter.

**ANUJ BHANDARI:** Yes, I'll read. “No person shall drive a motor vehicle in any public place unless he holds an effective driving license issued to him, authorizing him to drive the vehicle. And no person shall so drive a transport vehicle other than a motor cab or motorcycle hired for his own use or rented under any scheme made under Sub-section 2 of Section 5, unless his driving license specifically entitles him to.” So, “drive transport vehicle hired for his own use.”

**JAYANT BHUSHAN:** ‘Other than’, not hired for his own use. Drive a transport vehicle other than this. Namely, if you have a transport vehicle, then you have to have a special authorization. “Except in those transport vehicles, which are a motor cab or motorcycle hired for his own use under 75(2).” Those are exempted from this requirement of authorization.

**JUSTICE P. S. NARASIMHA:** Context of a scheme, is it?

**JAYANT BHUSHAN:** It says ‘other than’, totally the opposite.

**ANUJ BHANDARI:** My Lord, Transport Vehicle. My LMV license authorizes me.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** 'No person shall so drive a transport vehicle unless his driving license, specifically entitles him to do so.' What is in parentheses is an 'exception to that.' Now the exceptions are two, other than a Motor cab or Motorcycle hired for his own use or a Motor cab or Motorcycle rented under any scheme made under sub-section 2 of Section 3.

**ANUJ BHANDARI:** I still can't understand how Section 3 helps them. I am getting an LMV license which includes Transport Vehicle. This is a very general term that you have to have a license for whatever you are driving.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** No, the point what Bhushan is trying to make was, which is what exactly, what I put to him. Then what, 'the second part would have no relevance at all.' That's his answer. If you become *otiose*.

**ANUJ BHANDARI:** Let us assume that there is no term of Transport Vehicle under Section 10, and we go back to those four terms. Now, how does Section 3 apply? Because Section 3 was there then also. Then I need that 'Class' of vehicle license. Section 3 has not been amended and there is no provision for granting a Transport Vehicle License?

**JUSTICE PANKAJ MITHAL:** No. Then what is the purpose of the second part of Section 3?

**ANUJ BHANDARI:** The condition subject My Lord.....

**JUSTICE PANKAJ MITHAL:** We leave out the words within the parentheses, that 'No person shall so drive a transport vehicle unless his driving license is specifically entitles him so to do.'

**ANUJ BHANDARI:** Transport vehicle here has to again in those four terms. That is what my submission would be.

**JUSTICE PANKAJ MITHAL:** Light Motor Vehicle is a very wide term. It includes some categories of the transport vehicle also.

**ANUJ BHANDARI:** Correct.

**JUSTICE PANKAJ MITHAL:** So you can drive a Light Motor Vehicle on the license granted for that purpose. But for driving a transport vehicle, which is in the category of Light Motor

1 Vehicle you have to get an endorsement specifically for that purpose. This is what they are  
2 arguing, and that is the purpose of second part.

3  
4 **ANUJ BHANDARI:** Definition of Light Motor Vehicle includes transport vehicle. Now, if I  
5 am getting specifically a license for motor vehicles say, as against an adapted vehicle which fell  
6 from My Lord, that does not include a transport vehicle. So I don't have a specific license for  
7 driving a transport vehicle, in case of an adapted vehicle. But if I am getting a license for an  
8 LMV, then that means that I am also getting a license to drive a transport vehicle. That is  
9 what my submission would be. There are other vehicles which might not be used as  
10 transport vehicle. So, in that case, the road roller... in that case I don't need that  
11 particular license. But if there is a category of vehicle which can be used as a transport vehicle,  
12 then getting a license of that category entitles me to drive all kind of all kinds of vehicle under  
13 that category. That's what my submission would be.

14  
15 **ARCHANA DAVE:** Can I just come for a moment here, My Lords? There is a  
16 notification [UNCLEAR] which says transport vehicle and non-transport vehicle, which  
17 includes a three-wheeler my learned friend is talking about. The additional written  
18 submissions filed on 19th July, I had given that to the Court Master and Annexure A-5 of  
19 that, 19th July.

20  
21 **ANUJ BHANDARI:** Page number?

22  
23 **ARCHANA DAVE:** Page number 84. It can be brought on screen so that I can quickly  
24 show My Lords, then this confusion can be cleared. In *Rambha Devi* 19th July submissions.  
25 So just Annexure A-5, if you can please open on the screen? Yes. My Lords, this is a  
26 notification which again, transport vehicle and non-transport vehicle. It's a  
27 table, which, under the category of three wheeled vehicles for personal use, motor cars, all  
28 these, it has divided what will be the transport vehicle and what will come under non  
29 transport?

30  
31 **ANUJ BHANDARI:** For personal use. It's for personal use?

32  
33 **ARCHANA DAVE:** The other categories are also there.

34  
35 **ANUJ BHANDARI:** [UNCLEAR]

**ARCHANA DAVE:** Yes. The exception only is under Section 3. There are only two exceptions which are given.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Right, there are two exceptions.

**ARCHANA DAVE:** Yes. Apart from that, these are the categories My Lords, for transport and non-transport. So, under 7500, if any of these are there, then these will be non-transport and they will not be included in the definition of transport vehicle, which is provided My Lords, as a part of Section 2, Subclause 21. You can't have all the transport vehicles saying that they will be covered under 2(21), because they are less than 7500 kgs. No, these are all non-transport vehicles. This is My Lords specifically for public...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** There are two competing, two competing interpretations. One is that in Section 10(2), the expression Light Motor Vehicle and the expression transport vehicle, are specified separately.

**ARCHANA DAVE:** Yes.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Therefore, the license for a Light Motor Vehicle is distinct from a license or a Light Motor Vehicle, since both have been specified separately, that's one conception. And therefore, what they are arguing, the insurance companies are arguing, that a license to drive a Light Motor Vehicle will not cover a transport vehicle even within 7500 kg. The other way of looking at the competing consideration, is that this Section 10(2) must be read together with the definition, and therefore where a transport vehicle falls within the category of a Light Motor Vehicle, then, a person who holds a Light Motor Vehicle license can also drive a transport vehicle, which falls within the definition of a Light Motor Vehicle. They are two different competing...

**JAYANT BHUSHAN:** The second their submission doesn't deal with 3(1) second part. That's the problem. 3(1) second part is the real, My Lord...

**ARCHANA DAVE:** And then again, we come to the point that whether a definition clause can overwrite substantive sections.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** You will have to say that in the context of 10, the definition has to be ignored. Why should we ignore the definition while applying 10?

**JAYANT BHUSHAN:** No, no. Therefore Section 10 is not my main argument. Let me make it very clear.

**ANUJ BHANDARI:** [UNCLEAR]

**JAYANT BHUSHAN:** Let me make at least my submissions clear. Section 10 is not my main argument. In fact, I am saying, even before the amendment of 1994 where Section 10 was amended to include transport vehicle, even before that, Section 3 was still the same. Namely, that your license entitles you to drive the sort of vehicle that is mentioned in the license, and had it been left at that, it would have entitled you to drive a Light Motor Vehicle, which includes the transport vehicle of a certain weight. But, it didn't end there, and therefore, the second part cannot be ignored. It was very clear. And that My Lord, we are supplementing with the various other sections. The regime for transport vehicles and submissions that when you refer to Section 4, you must read it as transport vehicle, which is not an LMV. Just have a look at all those sections again. Age limit in connection with driving of motor vehicle, Section 4.

**ARCHANA DAVE:** It's not based on age at all.

**JAYANT BHUSHAN:** One second. No person under the age of 18 years shall drive a motor vehicle in any public place. So that's the general, 18 years now. See Subsection 2. Subject to the provisions of Section 18, no person under the age of 20 years shall drive a transport vehicle in any public place. Now what my learned friend is asking Your Lordships to do, is read this as, no person under the age of 20 years shall drive a transport vehicle, except a Light Motor Vehicle in any public place. It doesn't say that. Why should we add, My Lord, words to the statute? Now, again, have a look at Section 7. "No person shall be granted a learner's license to drive a transport vehicle, unless he has held a driving license to drive a Light Motor Vehicle for at least one year". What he's asking you to do is say...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhushan, your point is a weighty point, no doubt about it. The latter part of Sub-section of Section 3, how is it worded? It does not say, "and no person shall so drive a transport vehicle, unless he holds a license valid for a transport vehicle." That's not the line.

**JAYANT BHUSHAN:** It doesn't say that. It doesn't say that.



**CHIEF JUSTICE D. Y. CHANDRACHUD:** It says, “unless his driving license specifically entitles him so to do.”

**JAYANT BHUSHAN:** Right. So what used to happen...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** That means, the legislature seems to be indicating that there may be categories of driving license which also enable you to drive a transport vehicle.

**JAYANT BHUSHAN:** If those words were not there, the meaning would be the same.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** No.

**JAYANT BHUSHAN:** Yes. Just read, My Lord, the first part alone for the time being. You will come to exactly the same conclusion. It's not adding anything, the second part. If that's the construction that is correct, it's not adding anything at all. In fact, My Lord, why it says... Earlier Your Lordship has seen Section 10 didn't include 'transport vehicle'.

**KAUSTUBH SHUKLA:** My Lord, I have a submission to make as far as the second part of Section 3 is concerned. If My Lord may please see this Section 75 for a moment, the proper reading of Section 75 is for the purpose of regulating the business and not for regulating the license. If My Lord may please see Section 75(1).

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Basically, pull out even the hired cars, etc.

**KAUSTUBH SHUKLA:** As far as Section 3 is concerned...

**JAYANT BHUSHAN:** My Lord, this method of endorsement of our transport vehicle is nothing new. It has not come after the amendment of Section 10. It was always envisaged. Section 3(1), second part is not a new addition. In fact, one of the words 'specifically' is important here. Your Lordships just sees that second part of Section 3(1), “And no person shall so drive a transport vehicle unless his driving license specifically entitled him to do so”. In fact, the word 'specifically' is relevant here. Namely, your license, it can't be by implication. Namely, Light Motor vehicle, therefore, that includes, within the definition, therefore you are entitled to drive it. Apart from the fact that it would be rendered *otiose*. The same meaning is conveyed by the first part, unless Your Lordship accepts the construction I am putting on it. But quite apart from that, it says 'specifically'. Namely, your driving license must specifically

1 authorize you to drive a transport vehicle. Which is why the endorsement that, yes, this is...  
 2 your license is TR (transport) or NT (non-transport). Otherwise, it would not have been  
 3 framed in such a manner. Firstly, the second part is completely *otiose* otherwise. And  
 4 secondly, what is the use of the word 'specifically'? And it only applies to transport vehicles.  
 5 "No person shall so drive a transport vehicle unless his driving license specifically entitles him  
 6 so to do." Your license must mention that you are authorized to drive a transport vehicle. So,  
 7 either it's a transport vehicle license under Section 10, now there is a separate category, or it  
 8 may be an LMV with an endorsement of transport. As I showed Your Lordship in that form of  
 9 driving license it says TR/NT (transport/non-transport). Mine says non-transport.

10  
 11 **ANUJ BHANDARI:** My Lord, the answer to that is very simple. That there are 'categories of  
 12 vehicle'...

13  
 14 **JAYANT BHUSHAN:** And the other My Lord..

15  
 16 **ARCHANA DAVE:** Section 10(2) refers to 'entitlement'. If I can just read that Section  
 17 again, Section 10(2). "A learner's license, or as the case may be, driving license, shall be so  
 18 expressed as entitling the holder." So all these have to be. These are the entitlements you need.

19  
 20 **ANUJ BHANDARI:** It has to be read with form...

21  
 22 **ARCHANA DAVE:** So My Lords, this is not a criteria for a driving license is my submission  
 23 because Part 2, Chapter 2 is for driving license. Section 3, we read, is with respect to driving  
 24 license. Nowhere My Lord in the Act it is 7500 or less. That is just for the definition purposes.  
 25 But when you are talking specifically about the driving license, then these are the entitlements.  
 26 You have to specify which one you want to take a license for. That is why Adapted Vehicle is a  
 27 separate class. You have to mention in your form that you want to apply for  
 28 an Adapted Vehicle. In Mr. Dave's written submission there are two forms attached, that  
 29 are Form 6 and Form 7. Form 6 has these all entitlements which kind of driving license you  
 30 want to drive: e-maxi, cab, auto rickshaw that is also specifically, e-cart, e-rickshaw, you have  
 31 to specifically.....

32  
 33 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Where is Form 4 in the rules compilation?  
 34 What page is the form, Form 4?

35  
 36 **ARCHANA DAVE:** I'll just show.

**ANUJ BHANDARI:** The form is in *Mukund Dewangan*, the form has been accepted.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Bookmark final copy, of Mr. Siddharth Dave. What page is it? If somebody can give us the page. 689.

**ANUJ BHANDARI:** This is the latest one. My Lord may have Form 2.

**JAYANT BHUSHAN:** Form 2, which is the application for a learners license?

**ANUJ BHANDARI:** Class of vehicle applicable for new learners license or new driving license. Motor Vehicle without Gear, Motor Vehicle with Gear, Light Motor Vehicle, Adapted Vehicle, Medium or Heavy or Passenger Vehicle as Transport Vehicles.

**JUSTICE P. S. NARASIMHA:** Form 4 is at Page 26. It is excluded from here, I think *Mukund Dewangan* extracts it. Para 23.

**ANUJ BHANDARI:** Yes My Lord. There are two forms. One is prior to amendment, one is post amendment.

**JUSTICE P. S. NARASIMHA:** Prior to is at page 26.

**ANUJ BHANDARI:** Paragraph 19 is the pre '94 Amendment Act, Form 4 which does not provide for any transport vehicle. So when I'm applying, I'm filling a form there is no provision. Para 19 of *Mukund Dewangan* is pre-'94, Form 4, pre-'94. This is how I apply. The options I have when I apply for a license. I don't even have an option to apply for a Transport Vehicle License.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Those four categories, Medium Goods, Medium Passenger, Heavy Goods, Heavy Passenger.

**ANUJ BHANDARI:** Correct, that was the idea, consume those four into one.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Now then comes post '94.

**ANUJ BHANDARI:** Turn of the page is post 2001. Those four categories, but for Medium Passenger Motor Vehicles, that was left as separate. Next page, those three categories were consumed into one as Transport Vehicle. Now, there was no amendment to

1 the definitions of Transport Vehicle, or LMV. Had the idea been to remove Transport Vehicles  
2 from LMV and take a separate license there would... a definition would have been  
3 changed of LMV.

4  
5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Now Form 6 is at paragraph 24 at page 25. The  
6 holder of this license is licensed to drive throughout India vehicles of the following  
7 description.

8  
9 **ANUJ BHANDARI:** How the license is given?

10  
11 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Light Motor Vehicle and transport vehicle in  
12 terms of Rule 10.

13  
14 **ANUJ BHANDARI:** Yes.

15  
16 **CHIEF JUSTICE D. Y. CHANDRACHUD:** According to them, Light motor vehicle must  
17 be read to mean Light Motor Vehicle excluding all transport vehicles according to them.

18  
19 **ANUJ BHANDARI:** Yes. And take it otherwise. If I get a transport vehicle license, then I am  
20 able to drive all kinds of transport vehicle. Heaviest of the trolley to an auto. All kinds of  
21 transport vehicles I can drive now. That's not the idea. Idea is segregating your skills based on  
22 the weight. So, as soon as I get a transport vehicle...

23  
24 **JAYANT BHUSHAN:** The forms, My Lord, have undergone many changes over the years.  
25 Forms off course are made by the Government, not by Parliament. At some stage, the form  
26 was to apply for a Light Motor Vehicle as non-transport vehicle.

27  
28 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhandari complete. Have you finished  
29 now?

30  
31 **ANUJ BHANDARI:** Not more than 5 minute. Just quickly brush through my submission.

32  
33 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Then we'll give 10 minutes for the  
34 rejoinder. Then wrap up today.

35  
36 **ANUJ BHANDARI:** So My Lord, I have already submitted that...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** The Arbitration matter we will discharge for today. This will get over today, we'll start tomorrow. We'll start right tomorrow morning. Arbitration matter will be going on tomorrow right?

**R. VENKATARAMANI:** Very well. Your Lordships fixed the West Bengal matter tomorrow under the part heard matter also.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Arbitration will get over in a day. That's alright, we will plan. We'll start arbitration tomorrow. We'll see if there's a spillover we can see, we can take it at our next.... We'll take up Canon after the arbitration is over, otherwise there three benches which are broken up. So, we'll finish the arbitration, and then we'll start Canon. Canon will retain its position. They have listed I think 1500 matters. We have to take up Canon.

**PETITIONER'S COUNSEL:** In the arbitration matter we can go next week...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Yes. Ready right? In the arbitration matter both sides are ready completely.

**RESPONDENT'S COUNSEL:** In the arbitration matter, some files got corrupted. I'll just change that and re-upload it during the day. I'll do it during the day.

**R. VENKATARAMANI:** The arbitration matter as far the report to the committee is concerned, it's taking its way through for a Parliamentary amendment, but I don't know whether that would public hold...

**TUSHAR MEHTA:** My Lord, I think we may not wait for the report My Lord. Now implementation or otherwise. It's a neat question whether My Lord, whether core is right or not. Regarding unilateral appointment, way forward will have to be something in the middle. Either of the extreme..

**NEERAJ KAUL:** Sir the [UNCLEAR] is on the correctness of code. Whether the code is right or not is on both...

**TUSHAR MEHTA:** Sir what I have seen is...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** We will close this matter, so, we are ready for a fresh matter in the morning tomorrow.

**TUSHAR MEHTA:** My Lord, this may go to the next week, subject to Your Lordships' convenience. But I will tell Your Lordships My Lord, Your Lordships may perhaps not remember, tomorrow My Lords have kept that *suo moto*, which might take some time.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** With Calcutta.

**TUSHAR MEHTA:** Calcutta, My Lord. Your Lordships have also kept...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** But that is really to only apprise us about the...

**TUSHAR MEHTA:** Here we need some... It can be next week, My Lord, that's all I'm saying. ERA. The *locus standi* of ERA which is part heard, is also kept tomorrow. On our request, My Lord, the BCCI matter is also kept tomorrow. There are some matters of.... If it can be, My Lord, then next Tuesday or Wednesday. This would have far reaching ramifications, My Lord.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Arbitration will wind up tomorrow, right? Once we begin?

**TUSHAR MEHTA:** No, not arbitration.

**JUSTICE P. S. NARASIMHA:** Chief is asking, arbitration will get concluded tomorrow?

**TUSHAR MEHTA:** It will not. Therefore, I'm saying, kindly have it on Tuesday-Wednesday or Wednesday-Thursday next.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Next Wednesday-Thursday we will earmark two.. they are final hearing days. We will earmark Wednesday and Thursday for the arbitration.

**TUSHAR MEHTA:** Correct.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Right?

**JUSTICE P. S. NARASIMHA:** We'll start at 10:30 only.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Then, tomorrow then Cannon will be on board tomorrow.

**TUSHAR MEHTA:** Only one request. My Lord. From reading of all written submissions, it appears that everyone has taken a very broad-brush arguments in the written submission. Because except for some reference in Mr. Fali Nariman's written submissions, there are no questions framed. My Lord, what we can do subject to Your Lordships' approval, we can sit together and arrive at the minimum questions which can be answered.

**NEERAJ KAUL:** This is, of course, for Your Lordships to decide, I don't think Your Lordships, in this reference, really need to frame a question, because the only issue here...[UNCLEAR] and whether a unilateral appointment clause wherein merely because you are given the choice to choose one out of the two, sufficiently takes care of transparency, independence and impartiality, is the only question. And we are relying on a set of judgements, core is another set of judgements, which, according to us, does not say that other judgments are wrong in law, but gives it a counter-balancing argument which...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** So what we'll do is, we will keep it for Wednesday and Thursday. Please make sure... because three of us, three benches are going to assemble on Wednesday and Thursday. We'll take... between yourselves please allocate time. We have to finish it on Wednesday and Thursday.

**TUSHAR MEHTA:** Our submissions are going to be middle of the way, assisting the court, neither taking core view or any other view. So that, arbitration as an alternative dispute mechanism sustains.

**NEERAJ KISHAN KAUL:** Very grateful.

**RESPONDENT'S COUNSEL:** Half a minute only, My Lord. There's a distinction on the issues, that's why I wanted...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** You can point it out. Mr. Kaustubh, now what you want to say. You had one point, you said.

**KAUSTUBH SHUKLA:** If, My Lord may please see...

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhandari, you are finished now?

**ANUJ BHANDARI:** My Lord, just one minute I'll take to brush up the rest of the arguments.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** All right.

**ANUJ BHANDARI:** Section 183, My Lord, may have page 406 of the... this is safety, what is more logical. There are two submissions I have. One is, my skill is determined by the weight of vehicle, not the use of vehicle.

**JUSTICE P. S. NARASIMHA:** 183 is a judgement.

**ANUJ BHANDARI:** 406. Section 183. "My skill is determined *qua* the weight of the vehicle." I will be equally hazardous irrespective I'm driving a passenger or my family. That's one. Secondly, My Lord, the Act puts in my skill in three blocks - light, medium and heavy. Now 183 says that for Light Motor Vehicle, the penalty is Rs. 1,000. For heavy and medium, the penalty is different.

Lastly, my submission... last submission would be My Lord, not to change the interpretation given by ***Mukund Dewangan***, reason being My Lord last seven years law is not my favour. Changing it retrospectively, compensation has been paid.

**R. VENKATARAMANI:** Just a reflection on Section 3. Not that I want to add anything. It is a kind of an emphasis, the second part of Section 3 is only an emphasis. It says No person shall drive a motor vehicle. Again, it talks about the transport vehicle. So the importance of having a necessity driving license. It's not become redundant. It is just an emphasis.

**CHIEF JUSTICE D. Y. CHANDRACHUD:** Thank you, Mr. Attorney. Mr. Kaustubh, anything? I think we've gone through the whole gamut of it. And just a bullet point, one or two bullet points and then we can hear the other side.

**KAUSTUBH:** Basically, by and large My Lord we all are arguing the same thing, that Transport Vehicle, the LMV, so earlier we used to do that verbal, nonverbal reasoning kind of those thing's. So basically the Transport Vehicle is the bigger circle and the Light Motor Vehicle is also a circle, which they have to interject in the... So to answer very quickly what they have raised actually. At page number 457 of



1 the written submission of Mr. Dave, as far as the syllabus is concerned, I would point out one  
 2 very interesting thing Rule 31J of the syllabus. It is at 457 of Mr. Dave's submission. It  
 3 only indicates about the Light Motor Vehicle, it does not indicate about the Transport Vehicle  
 4 at all. So it only indicates about the Light Motor Vehicle. And after that it actually indicates,  
 5 (B) is about the Medium and Heavy Motor Vehicle. So.....

6  
 7 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Kaustubh all of you have given us your  
 8 notes of submissions. [UNCLEAR] audit, but Mr. Bhushan you can give us a note in rejoinder,  
 9 not more than three or four pages you know, so that....

10  
 11 **MS. SHENOY:** So that's slightly different. Just one submission. I appear for about 2000 cab  
 12 drivers. Now we've had a regime for the last more than eight years and much more. Now for  
 13 us overnight if there is a requirement to now have an endorsement saying Transport or  
 14 likewise, for us, this is a livelihood issue. So one is, if It's going to be retrospective, I mean that  
 15 is going to spell doom. That of course, that is one aspect. The second is that we do want a  
 16 period of transition, because today we have to go through tests again...

17  
 18 **CHIEF JUSTICE D. Y. CHANDRACHUD:** The alternative?

19  
 20 **MS. SHENOY:** Alternative, because everything is been covered. I don't want to ... yes, and  
 21 my submissions are already on record, but Your Lordships may think of in the  
 22 alternative a sufficient time to transition because it's to my only one Union is 2000 people, so  
 23 the number could go to lakhs. And also about the Infrastructure.

24  
 25 **CHIEF JUSTICE D. Y. CHANDRACHUD:** We needn't labour that.

26  
 27 **MS. SHENOY:** Yes. And also whether all States have the necessary infrastructure to process  
 28 these licenses and do the tests within a particular timeline. That is also...

29  
 30 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Anything else. Thank you Ms. Shenoy, I  
 31 hope we have not cut it short. Anything else that we have missed?

32  
 33 **MS. SHENOY:** I have my submissions.

34  
 35 **CHIEF JUSTICE D. Y. CHANDRACHUD:** That we will do.... No difficulty.

1 **RESPONDENT'S COUNSEL:** We have all filed written submissions, My Lord. I just want  
2 to clarify Section 3. Lordship, Justice Mithal also pointed out, it clearly says second part I am  
3 reading My Lord. It says that...

4  
5 **CHIEF JUSTICE D. Y. CHANDRACHUD:** What's your submission? Tell us, now no the  
6 second part, tell us..

7  
8 **RESPONDENT'S COUNSEL:** It says, "A vehicle hired for his own use  
9 or rented under any scheme made under the Section 2, unless [UNCLEAR]. So 7500 kgs is  
10 there if he's hiring or renting. So, therefore My Lord, that clarifies My Lord.

11  
12 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Mr. Bhushan, give us his short note.

13  
14 **JAYANT BHUSHAN:** I just want to indicate that there was a whole line of  
15 cases which says that the statute has to be interpreted on the plain words, and the court should  
16 not be adding or subtracting words. And therefore, I think saying that this may apply only for  
17 transport vehicles other than Light Motor Vehicles in Section 4, 7, 8, 9, 10, 14, etc. that may  
18 not be what Parliament intended. They did not say that your age limit for driving a transport  
19 vehicle is 20 years, except in Light Motor Vehicle. I will give all those judgements also.

20  
21 **CHIEF JUSTICE D. Y. CHANDRACHUD:** Two pages at the moment. Thank you very  
22 much for your...

23  
24  
25 ***END OF THIS PROCEEDING***